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March 9, 2011

VIA E FILING

Jocelyn D. Boyd, Esquire  
Chief Clerk and Administrator  
South Carolina Public Service Commission  
101 Executive Center Drive  
Columbia, SC 29210

RE: Application of i-wireless, LLC for Designation as an Eligible  
Telecommunications Carrier in the State of South Carolina

Dear Ms. Boyd:

Enclosed please find for filing the Application of i-wireless, LLC for Designation as an Eligible  
Telecommunications Carrier. By copy of this letter, I am serving the Office of Regulatory Staff.

If you have any questions or if I may provide you with any additional information, please do not  
hesitate to contact me.

Sincerely,

Elliott & Elliott, P.A.



Scott Elliott

SE/jcl

Enclosures

cc: C. Dukes Scott, Esquire w/enc.  
Lance J.M. Steinhardt, Esquire

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF SOUTH CAROLINA**

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IN RE:

Application of i-wireless, LLC  
for Designation as an Eligible Telecommunications  
Carrier in the State of South Carolina

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**APPLICATION OF I-WIRELESS, LLC  
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER  
IN THE STATE OF SOUTH CAROLINA**

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February 25, 2011

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IN THE STATE OF SOUTH CAROLINA**

**I. INTRODUCTION**

i-wireless, LLC (“i-wireless” or the “Company”), by its undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”)<sup>1</sup> and Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (“FCC”),<sup>2</sup> and the rules and regulations of the Public Service Commission of South Carolina (“Commission”), hereby submits this Application for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of South Carolina. i-wireless seeks ETC designation solely to provide Lifeline service to qualifying South Carolina consumers; it will not seek access to funds from the federal Universal Service Fund (“USF”) for the purpose of providing service to high cost areas.<sup>3</sup> As demonstrated herein, and as certified in Exhibit 1, i-wireless meets all the statutory and regulatory requirements for designation as an ETC in the

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<sup>1</sup> 47 U.S.C. § 214(e)(2).

<sup>2</sup> 47 C.F.R. §§ 54.101-54.207.

<sup>3</sup> Given that i-wireless only seeks Lifeline support from the low-income program and does not seek any high-cost support, ETC certification requirements for the high-cost program are not applicable to i-wireless. Neither does i-wireless seek ETC designation for purposes of participating in the Link Up program.

State of South Carolina. Rapid grant of i-wireless' request, moreover, would advance the public interest because it would enable the Company to commence much needed Lifeline services to low-income South Carolina residents as soon as possible. Accordingly, the Company respectfully requests that the Commission expeditiously approve this application for ETC designation.

All correspondence, communications, pleadings, notices, orders and decisions relating to this Application should be addressed to:

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## **II. I-WIRELESS' UNIVERSAL SERVICE OFFERING**

### **A. Company Overview**

i-wireless is a North Carolina Limited Liability Company.<sup>4</sup> Its principal office is located at 1 Levee Way, Suite 3104, Newport, Kentucky 41071. i-wireless is a reseller of commercial mobile radio service ("CMRS") throughout the United States. i-wireless provides prepaid

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<sup>4</sup> i-wireless was organized in the State of North Carolina on September 7, 2006.

wireless telecommunications services to consumers by using the Sprint Nextel (“Sprint”) network on a wholesale basis to offer nationwide service. i-wireless obtains from Sprint the network infrastructure and wireless transmission facilities to allow i-wireless to operate as a Mobile Virtual Network Operator (“MVNO”).

i-wireless’ prepaid wireless services that are affordable and easy to use are attractive to low-income and lower-volume consumers, providing them with access to emergency services and a reliable means of communication that can be used both at home and while traveling to remain in touch with friends and family and for contacting prospective employers. i-wireless offers consumers simple and affordable prepaid calling plans, a variety of prepaid service plans, easy-to-use handsets and high-quality customer service. Given its pricing and marketing strategy and the demographics of other, similar MVNOs’ customers, i-wireless anticipates that many of its customers will be from low-income backgrounds and will not previously have enjoyed access to wireless service because of economic constraints, poor credit history, or sporadic employment. i-wireless does not conduct credit checks or require customers to enter into long-term service contracts as a prerequisite to obtaining wireless service. i-wireless allows customers to choose a prepaid plan in which they are charged only for the minutes they use.

By providing affordable wireless plans and quality customer service to consumers who are otherwise unable to afford them, or were previously ignored by traditional carriers, i-wireless will expand the availability of wireless services to many more consumers, which is the principal reason that Congress created the universal service program.

#### **B. Proposed Lifeline Plans**

i-wireless has the ability to provide all services and functionalities supported by the universal service program, as detailed in Section 54.101(a) of the FCC’s Rules (47 C.F.R. §



54.101(a)) throughout South Carolina. i-wireless will provide Lifeline service to qualifying customers requesting this service throughout South Carolina pursuant to the universal service program and in accordance with 47 C.F.R. § 54.202(a)(1).

i-wireless intends to be a leader in the prepaid marketplace by offering consumers exceptional value and competitive amounts of voice usage at all price points. i-wireless' prepaid offering will be an attractive alternative for consumers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts. i-wireless will provide Lifeline service under the brand name "Access Wireless." The Company's Lifeline service offering will provide customers with the same features and functionalities enjoyed by all other i-wireless prepaid customers, with one notable exception: prepaid Lifeline services will be free of charge. As Exhibit 2 demonstrates, i-wireless' Lifeline service offering proposes to give eligible customers three (3) Lifeline Plan choices:<sup>5</sup>

1. 150 Anytime Minutes Plan. Under the 150 Anytime Minute Plan, eligible customers enjoy a free handset, 150 anytime minutes, rollover minutes, free incoming text messages, free customer care calls and participation in the Kroger loyalty Free Minute program, whereby they can earn free minutes simply by grocery shopping.
2. 250 Anytime Minutes Plan. Under this Plan, eligible customers receive a free handset and 250 anytime minutes. Customers will not qualify for the perks listed above, forgoing these for the higher level of minutes.
3. \$15 Retail Discount Plan. The third option allows Lifeline eligible customers to choose from any i-wireless monthly retail plan<sup>6</sup> at a \$15 discount. Under this \$15

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<sup>5</sup> i-wireless currently has applications for ETC designation pending with the FCC, Arizona, Arkansas, California, Colorado, Georgia, Illinois, Indiana, Kansas, Kentucky, Michigan, Ohio, Oregon, Utah and Washington; no such petitions have been denied.

<sup>6</sup> Except a Text Only Plan.

Retail Discount Plan, a customer can, for example, pay \$10 additional per month and receive 200 anytime minutes, unlimited text messaging and 200 megabytes of data, plus all of the perks listed under the 150 minute plan.

Customers can change their plan on their monthly plan date, without penalty, should they determine that another plan better meets their needs or if their needs change. i-wireless does not impose burdensome credit checks, long-term service contracts, or roaming charges. Furthermore, i-wireless does not assess charges for activation or connection of service, and the 150 and 250 minute plans include all applicable taxes and fees; thus, Lifeline customers are able to receive free service with no additional charges for taxes or activation. Minutes are credited to a customer's account at the beginning of every 30-day cycle, which is initiated on their Lifeline activation date. A customer's handset does not have to be "on" to receive minutes, as i-wireless' operations are system-based, not handset-based. Customers may place calls to 911 for free, even if there are no minutes remaining on their account.

Lifeline customers will receive an E911-compliant wireless handset at no charge, and i-wireless intends that all handsets will be data-capable, high quality refurbished phones. i-wireless' market research of the Lifeline-eligible consumer suggests that they prefer a feature-rich, high-end refurbished phone to a new phone that has less to offer. These phones come with a one year manufacturer warranty, and may be replaced at no charge annually, if necessary, or upon handset malfunction.<sup>7</sup> With data-capable phones, i-wireless customers are able to interface with online customer service and check the balance of their minutes for free at anytime, regardless of their service plan.

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<sup>7</sup> Handsets may be replaced for a nominal fee if the customer is at fault.



In addition to free voice services, prepaid Lifeline customers also will have access to voice mail, caller I.D. and call waiting services at no additional charge, even after their initial allotment of free minutes has been consumed. Customers are not bound by a local calling area requirement; all i-wireless plans come with domestic long distance at no extra charge and exceptional nationwide digital coverage on the Nationwide Sprint PCS Network. Unlike many carriers, i-wireless does not decrement minutes for incoming text messages, balance inquiries, or calls placed to customer service, and unused minutes carry over to the following month.<sup>8</sup> i-wireless Lifeline customers will have access to the same exceptional customer care provided to retail customers. The Company contracts with a high quality, U.S. domestic customer care group whose hold time is among the lowest in the prepaid wireless industry. Therefore the benefits with i-wireless in regards to customer service are three-fold: service standards are high, wait times are low, and minutes of use do not count against a customer's account balance.

Furthermore, through i-wireless' partnership with The Kroger Co. ("Kroger"), the nation's largest grocery retail chain and the second largest retailer overall, customers can accumulate free minutes for dollars spent at participating Kroger-owned store locations simply by using their Kroger loyalty shopper's card.<sup>9</sup> For every \$100 in qualified spending<sup>10</sup>, 20 minutes will automatically be applied to a customer's account balance, or a \$1 credit will be applied to the account balance if the customer is on an unlimited voice plan. Currently, i-wireless, through its partnership with Kroger, has a presence in 13 Kroger stores in South

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<sup>8</sup> These "perks" are not available on the 250-minute plan, as outlined in Exhibit 2. Exhibit 2 also details the amount of eligible carry over minutes for each plan.

<sup>9</sup> The Kroger Co. has a 50% ownership interest in i-wireless. Detailed information on the Free Minutes program is located on the Company's website, [www.iwirelesshome.com](http://www.iwirelesshome.com).

<sup>10</sup> Qualified purchases do not include payments for taxes, office services, alcohol, tobacco, fuel, tickets, Western Union, Green Dot cards, MoneyPak, Kroger Gift Cards, prescriptions and any purchases prohibited by law. Dollars spent continue to accumulate until the \$100 threshold is reached; any increments over \$100 carry over and do not expire.

Carolina. Lifeline customers can participate in this Free Minutes program even when utilizing government-subsidized forms of payment. By way of example, households can receive up to a \$668 monthly Supplemental Nutrition Assistance Program (SNAP; formerly known as food stamps) allotment. These customers, taking the Company's feature-rich 150 Minute plan as an example, would qualify for an additional 134 free minutes, on average, per month. Added to their base plan, this would give them, on average, 284 minutes per month, along with all of the perks (rollover minutes, free incoming texts and world class customer care). Lifeline customers can purchase additional airtime if needed. Airtime cards are sold in denominations of \$10, \$20 and \$50. Additional airtime may be purchased at Kroger stores, over the phone (by calling the IVR or through customer care interface) or online. i-wireless sends low and depleted balance alerts in the form of a free text message to the customer, and also alerts the customer through a free text message when minutes have been added to their account.

### **C. Plan Enrollment**

Customers interested in obtaining information on the Lifeline program will be directed to a toll-free telephone number and to i-wireless' Access Wireless website, which will contain information regarding the Company's Lifeline service plan, including a detailed description of the program and state-specific eligibility criteria. Customers may then request that a Lifeline enrollment form be mailed to them, or they can download a form from the internet or retrieve a form from i-wireless kiosks in Kroger. Applicants must complete the enrollment form, which will include a place where applicants must attest and certify under penalty of perjury that they satisfy the requisite eligibility criteria. In addition, each applicant is required to certify under penalty of perjury, at the time of application and annually thereafter, that they are head of their household and receive Lifeline-supported service only from i-wireless. The applicant must



return the signed enrollment form and all supporting documentation to the address provided by i-wireless. Processing of consumers' applications, including review of all application forms and relevant documentation, will be performed under i-wireless' supervision by managers experienced in the administration of the Lifeline program.

#### **D. Prevention of Waste, Fraud and Abuse**

i-wireless recognizes the importance of safeguarding the USF. Therefore, the Company has implemented the following 60-day non-usage policy in an effort to avoid waste, fraud, and abuse of the program. If no usage appears on an i-wireless Lifeline customer's account during any continuous 60-day period, i-wireless will promptly notify the customer that the customer is no longer eligible for i-wireless Lifeline service subject to a 30-day grace period. During the 30-day grace period, the customer's account will remain active, but i-wireless will engage in outreach efforts to determine whether the customer desires to remain on the Company's Lifeline service. If the customer's account does not show any customer-specific activity during the grace period (such as making or receiving a voice call, receiving or sending a text message, downloading data or adding money to the account), i-wireless will promptly deactivate Lifeline services and cease to seek reimbursement from the USF for that customer. Customers that have been deactivated may participate in the Company's Lifeline service in the future by reapplying and re-establishing eligibility.

i-wireless believes that the first line of defense against fraud and abuse is to partner with high quality channels and organizations. By emphasizing the social benefits of the program and partnering with those focused on the benefits to their constituents, the Company believes that it can avoid potential misuse of the program. To further protect the integrity of the USF, i-wireless has contracted with: (a) Solix, a well-known, experienced and reputable firm in the USF

industry, to assist in reviewing customer applications and verifying eligibility, and to ensure that i-wireless is in compliance with federal and state regulations at all times; and (b) CGM, LLC of Roswell, Georgia, a lifeline service bureau, to edit all subsidy request data. CGM will process and validate i-wireless' subsidy data to prevent: (1) Duplicate Same-Month Lifeline Subsidies (Double Dip): any name/address that is already receiving a lifeline subsidy from i-wireless will be automatically prevented from receiving a second lifeline subsidy in that same month; and (2) Inactive lines receiving subsidy: CGM's systems compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines. Through the processes described above, i-wireless ensures that it does not over-request from support funds.

### **III. THE COMMISSION HAS JURISDICTION TO DESIGNATE WIRELESS ETCs**

Section 214(e)(2) of the Act provides state public utility commissions with the "primary responsibility" for the designation of ETCs.<sup>11</sup> Although Section 332(c)(3)(A) of the Act prohibits states from regulating the entry of or the rates charged by any provider of commercial mobile service or any private mobile service, this prohibition does not allow states to deny wireless carriers ETC status.<sup>12</sup> Therefore, the Commission has the authority to designate i-wireless as an ETC. Pursuant to this authority, the Commission has historically participated in determining whether to grant ETC status to an applying carrier, including any requesting wireless carrier.<sup>13</sup> Under the Act, a state public utility commission with jurisdictional authority over ETC designations must designate a common carrier as an ETC if the carrier satisfies the requirements of Section 214(e)(1). i-wireless recognizes that Section 214(e)(1)(A) of the Act

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<sup>11</sup> 47 U.S.C. § 214(e)(2).

<sup>12</sup> See *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858-59, ¶ 145 (1997) ("USF Order").

<sup>13</sup> See e.g., *Application of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of South Carolina for the Limited Purpose of Offering Lifeline Service to Qualified Households*, Docket No. 2009-144-C, Order No. 2010-231 (Mar. 30, 2010) ("TracFone ETC Order").



states that ETCs shall offer services, at least in part, over their own facilities and that Section 54.201(i) of the FCC's Rules (47 C.F.R. § 54.201(i)) prohibits state commissions from designating as an ETC a telecommunications carrier that offers services exclusively through the resale of another carrier's services. However, on April 1, 2009, i-wireless filed with the FCC a petition requesting that the FCC exercise its forbearance authority under Section 10 of the Act (47 U.S.C. § 160) with respect to the facilities-based service requirement.<sup>14</sup> The FCC granted the *Petition for Forbearance* for the purposes of participating in the Lifeline program in an Order dated June 25, 2010.<sup>15</sup> Section 10(e) of the Act (47 U.S.C. § 160(e)) provides: "[a] State commission may not continue to apply or enforce any provision of this chapter that the [Federal Communications] Commission has determined to forbear from applying under subsection (a) of this section." As such, the Commission is required by Section 10(e) to act in accordance with the FCC's *i-wireless Forbearance Order*, and therefore, may not apply the facilities-based requirement to i-wireless. Therefore, the Commission has the authority under Section 214(e)(2) of the Act to grant i-wireless' request for designation as an ETC throughout the State of South Carolina.

**A. The ETC Designation Request Is Consistent with Recent Commission Precedent**

i-wireless' request for ETC designation to participate in the Lifeline program is consistent with the Commission's recent designation of TracFone as an ETC.<sup>16</sup> In its decision, the Commission determined that TracFone satisfied all of the necessary eligibility requirements and

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<sup>14</sup> See *i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, filed Apr. 1, 2009, ("*Petition for Forbearance*").

<sup>15</sup> *Petition of i-wireless, LLC for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, Order, FCC 10-117 (rel. June 25, 2010) ("*i-wireless Forbearance Order*"). A copy of the *i-wireless Forbearance Order* is attached hereto as Exhibit 3.

<sup>16</sup> See *TracFone ETC Order*.

that designation of a prepaid wireless provider as an ETC would serve the public interest. i-wireless requests that the Commission expeditiously process its ETC Application so that it can quickly commence providing qualifying low-income South Carolina customers with affordable USF-supported wireless services during these challenging economic times for all state residents. Designation of i-wireless as an ETC would further competition for wireless Lifeline services and would offer Lifeline-eligible consumers an additional choice of providers for accessing telecommunications services, representing a significant step towards ensuring that all low-income consumers share in the many benefits associated with access to wireless services.

#### **IV. I-WIRELESS SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC**

Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support.” Section 214(e)(2) of the Act authorizes state commissions, such as the Commission, to designate ETC status for federal universal service purposes and authorizes the Commission to designate wireless ETCs.<sup>17</sup> Section 214(e)(1) of the Act and Section 54.201(d) of the FCC’s rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by universal service, either using their own facilities or a combination of their own facilities and the resale of another carrier’s services. Applicants also must commit to advertise the availability and rates of such services.<sup>18</sup> As detailed below, i-wireless satisfies each of the above-listed requirements.

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<sup>17</sup> *USF Order*, at 8858-59, ¶ 145.

<sup>18</sup> *See* 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).



**A. i-wireless Will Provide Service Through Resale**

In the *i-wireless Forbearance Order*, The FCC conditionally granted i-wireless' *Petition for Forbearance* from the facilities requirement, "given the importance of public safety and in light of the fact that a Lifeline ETC is generally a low-income customer's only connection to the public switched telephone network."<sup>19</sup> The FCC further explained that "requiring a Lifeline provider to own the facilities it uses to offer service does not necessarily further the statutory goal of the low-income program."<sup>20</sup>

The FCC specifically conditioned its grant of forbearance on i-wireless as follows:

(a) i-wireless providing its Lifeline customers with basic 911 and enhanced 911 ("E911") access regardless of activation status and availability of prepaid minutes; (b) i-wireless providing its new Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (c) i-wireless complying with conditions (a) and (b) as of the date it provides Lifeline service; (d) i-wireless obtaining a certification from each Public Service Answering Point ("PSAP") where i-wireless seeks to provide Lifeline service confirming that i-wireless provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met; (e) i-wireless requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from i-wireless; (f) i-wireless establishing safeguards to prevent its customers from receiving multiple i-wireless Lifeline subsidies at the same address, and (g) i-wireless dealing directly with the customer to certify and verify the customer's Lifeline eligibility. The FCC required i-wireless to submit a plan describing the measures it would take to implement each of these conditions.<sup>21</sup>

In accordance with the *i-wireless Forbearance Order*, i-wireless filed its compliance plan with the FCC on July 26, 2010. In that compliance plan, i-wireless described how it would comply with each of the FCC's stated conditions. A copy of its compliance plan is attached to this Application as Exhibit 4.

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<sup>19</sup> *i-wireless Forbearance Order* ¶ 11.

<sup>20</sup> *Id.* ¶ 15.

<sup>21</sup> *See Id.* ¶ 16.

## **B. i-wireless Is a Common Carrier**

CMRS resellers like i-wireless are treated as common carriers for regulatory purposes.<sup>22</sup>

## **C. i-wireless Will Provide All Required Services and Functionalities**

i-wireless offers, or will offer upon designation as an ETC in South Carolina, all of the services and functionalities required by Section 54.101(a)(1)-(9) and Section 54.202(a) of the FCC's Rules (47 C.F.R. § 54.101(a) and 47 C.F.R. § 54.202(a)) including the following:

### **1. Voice Grade Access to the Public Switched Telephone Network**

i-wireless provides voice grade access to the public switched telephone network ("PSTN") through the purchase of wholesale CMRS services from Sprint. Bandwidth for this voice-grade access is at minimum between 300 and 3,000 MHz as required by FCC rules.<sup>23</sup>

### **2. Local Usage**

As part of the voice grade access to the PSTN, an ETC must provide local calling services to its customers. The FCC has determined that a carrier satisfies the local usage requirements when it offers customers rate plans containing varying amounts of local usage.<sup>24</sup>

i-wireless offers a variety of rate plans that provide its customers with local usage capabilities included within the flat per minute or per month rate.

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<sup>22</sup> *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1425 ¶ 37, 1454-55 ¶ 102 (1994) (wireless resellers are included in the statutory "mobile services" category, and providers of cellular service are common carriers and CMRS providers); 47 U.S.C. § 332(c)(1)(A) ("mobile services" providers are common carriers); *see also PCIA Petition for Forbearance for Broadband PCS*, WT Docket No. 98-100, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16911 ¶ 111 (1998) ("We concluded [in the *Second Report and Order*] that CMRS also includes the following common carrier services: cellular service, ... all mobile telephone services and resellers of such services.") (emphasis added).

<sup>23</sup> *See* 47 U.S.C. § 54.101(a)(1).

<sup>24</sup> *See e.g., Farmers Cellular, Inc.*, CC Docket No. 96-45, Memorandum Opinion and Order, 18 FCC Rcd 3848, 3852 ¶ 9 (2003); *Pine Belt Cellular, Inc. and Pine Belt PCS, Inc.*, CC Docket No. 96-45, Memorandum Opinion and Order, 17 FCC Rcd 9589, 9593 ¶ 10 (2002); *Western Wireless Corp., Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, Memorandum Opinion and Order, 16 FCC Rcd 48, 52 ¶ 10 (2000).



### **3. Dual Tone Multi-Frequency Signaling or its Functional Equivalent**

i-wireless provides dual tone multi-frequency (“DTMF”) signaling to expedite the transmission of call set up and call detail information throughout the network. All wireless handsets offered for sale by the Company are DTMF-capable.

### **4. Single-Party Service or its Functional Equivalent**

“Single-party service” means that only one party will be served by a subscriber loop or access line during a telephone transmission. i-wireless provides single party service to its customers for the duration of each telephone call, and does not provide multi-party (or “party-line”) services.

### **5. Access to 911 and E911 Emergency Service**

i-wireless provides 911 and E911 access for all of its customers. i-wireless also complies with the FCC’s regulations governing the deployment and availability of E911 compatible handsets. In particular, the Company will fully comply with the FCC’s E911 requirements applicable to wireless resellers.<sup>25</sup> As stated previously, i-wireless will provide access to emergency services consistent with the requirements set forth in the *i-wireless Forbearance Order*.<sup>26</sup>

### **6. Access to Operator Services**

i-wireless offers all of its customers access to operator services, in accordance with the FCC’s requirements.

### **7. Access to Interexchange Service**

i-wireless’ service provides its customers with the ability to make interexchange, or long

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<sup>25</sup> See *Revision of the Commission’s Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, Report and Order- and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd 25340 (2003).

<sup>26</sup> See *i-wireless Forbearance Order* ¶ 11.

distance, telephone calls. In fact, interexchange calls are included in i-wireless' service with no additional charge.

#### **8. Access to Directory Assistance**

All i-wireless customers are able to dial "411" to reach directory assistance services from their wireless handsets.

#### **9. Toll Limitation for Qualified Low-Income Customers**

Toll limitation allows customers to block the completion of outgoing long distance calls to prevent them from incurring significant long distance charges and risking disconnection. As described above, i-wireless provides its wireless service on a prepaid, or pay-as-you-go, basis. i-wireless' service, moreover, is not offered on a distance-sensitive basis and minutes are not charged separately for local or domestic long distance services. Customers also must specifically authorize access for international services, for which additional charges may apply. As the FCC found in its grant of ETC designation to Virgin Mobile, "the prepaid nature of [a prepaid wireless service provider's] service offering works as an effective toll control."<sup>27</sup> The nature of i-wireless' service, therefore, mitigates any concerns that low-income customers will incur significant charges for long distance calls resulting in disconnection of their service.

#### **D. i-wireless Will Advertise the Availability of Supported Services**

i-wireless will broadly advertise the availability and rates for the services described above using media of general distribution as required by Section 54.201(d)(2) of the FCC's regulations.<sup>28</sup> The Company will engage in advertising campaigns specifically targeted to reach those likely to qualify for Lifeline services, promoting the availability of cost-effective wireless

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<sup>27</sup> See *Federal-State Joint Board on Universal Service; In the Matter of Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petitions for Designation as an Eligible Telecommunications Carrier in the States of New York, North Carolina, Pennsylvania, Tennessee and Virginia*, Order, FCC 09-18 (rel. March 5, 2009) ("Virgin Mobile Order"), 24 FCC Rcd at 3394 ¶ 34.

<sup>28</sup> See 47 C.F.R. § 54.201.



services to this neglected consumer segment.

i-wireless' partnership with Kroger presents a unique advantage when seeking to increase consumer awareness of the Lifeline program. Kroger has a long-standing relationship with the low income consumer, and even caters to the consumer through store layout, such as clearly labeling food stamp-eligible items. i-wireless intends to utilize Kroger's existing relationship with Lifeline-eligible consumers in order to inform these consumers of their eligibility for Lifeline support. For example, when a customer pays with a government-subsidized form of payment at Kroger, their printed cash register receipt will automatically generate information informing them of their eligibility for the Lifeline program and how they can obtain more information.<sup>29</sup> i-wireless will also make use of the Kroger in-store radio, printed advertisements, and signage. Printed materials describing i-wireless' Lifeline program will be available at i-wireless in-store kiosks. Given the relationship that exists between i-wireless, Kroger, and low income consumers, i-wireless expects to be able to inform consumers of the availability of Lifeline service in a manner that will result in significantly higher participation in the Lifeline program by qualified consumers than has been the case in the past.

Though Kroger will be a primary point of contact with consumers and a dynamic source for advertising the Lifeline program, i-wireless will also seek to reach eligible consumers outside of its Kroger footprint. Consumers are not required to visit a Kroger store – they will be made aware of a toll free number and website whereby they can apply for the Company's Lifeline program. i-wireless intends to advertise its Lifeline service using printed advertisements, billboards and public transit signage. i-wireless will also promote the availability of its Lifeline offerings by distributing brochures at various state and local social service agencies, and intends

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<sup>29</sup> See attached Exhibit 5 for sample advertisements and the Lifeline Creative Brief being used to develop additional collateral. One of the advertisements is under the old trade name of "Access Mobile" and will be updated to "Access Wireless" before use.

to partner with nonprofit assistance organizations in order to inform customers of the availability of its Lifeline services. The Company's advertising efforts will target consumers throughout the Sprint coverage area, both in metropolitan and rural areas.

Statistics suggest that there are many eligible customers who are not yet aware of the programs. According to the best data available to the Company, as of December 31, 2009, fewer than 20% of consumers eligible for Lifeline Services in the State of South Carolina were being provided such services.<sup>30</sup> i-wireless believes that its advertising and outreach efforts detailed above will result in increased participation in the Lifeline program.

**E. i-wireless Requests Designation Throughout Its Service Area in South Carolina**

i-wireless is not a rural telephone company as defined in Section 153(37) of the Act (47 U.S.C. § 153(37)). Accordingly, i-wireless is required to describe the geographic area(s) within which it requests designation as an ETC. i-wireless requests designation as an ETC for its entire service area in South Carolina.<sup>31</sup> i-wireless understands that its service area overlaps with rural carriers in South Carolina, but maintains that the public interest factors described below justify its designation in these carriers' service areas, especially because it seeks ETC designation solely to utilize USF funding to provide Lifeline service to qualified low-income consumers. It does not seek and will not accept high cost support. Therefore, its designation as an ETC will cause no growth in the high cost portions of the USF and will not erode high cost support from any rural telephone company. In fact, the FCC has determined that "[d]esignation of competitive

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<sup>30</sup> See attached Exhibit 6, 2009 Lifeline Participation Rates by State, which was obtained from USAC, an independent not-for-profit corporation designated as the administrator of the federal Universal Service Fund by the FCC. USAC administers USF programs for high cost companies serving rural areas, low-income consumers, rural health care providers, and schools and libraries. Also attached is an FCC News Release dated September 14, 2009.

<sup>31</sup> A list of wire centers in which the Company requests ETC designation is attached hereto as Exhibit 7. Since i-wireless does not seek designation below the study area level of a rural telephone company, no "cream-skimming" analysis is required and i-wireless requests that the Commission waive that portion of Commission Regulation 103-690 requiring a "cream-skimming" analysis.



ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies.”<sup>32</sup> The Commission may designate i-wireless as an ETC in non-rural areas that i-wireless serves without redefining the service areas of non-rural telephone companies. The Commission may designate i-wireless as an ETC in rural telephone company service areas upon a finding that such designation would serve the public interest.<sup>33</sup>

**F. Service Commitment Throughout the Proposed Designated Service Area**

i-wireless provides service in South Carolina by reselling service which it obtains from its underlying facilities-based provider. The provider’s network is operational and largely built out. Thus, i-wireless will be able to commence offering its Lifeline service to all locations served by its underlying carrier very soon after receiving approval from the Commission. Indeed, it already serves those areas. Therefore, i-wireless will be able to provide Lifeline service to all qualified customers on a timely basis or within a reasonable period of time in accordance with 47 C.F.R. § 54.202(a)(1). i-wireless further commits to provide service throughout its proposed ETC-designated service area to all customers making a reasonable request for service, as required in 47 C.F.R. § 54.202(a)(1)(i).

**G. Network Improvement Plan**

Under FCC guidelines, an ETC applicant must submit a five-year plan (two-year plan under South Carolina regulations) that describes with specificity proposed improvements or upgrades to the applicant’s network on a wire center-by-wire center basis throughout its proposed designated service area. This guideline has no application where an applicant’s

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<sup>32</sup> See *Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, Memorandum Opinion and Order, 16 FCC Rcd 48, 55 (2000).

<sup>33</sup> See 47 C.F.R. § 54.207(c).



requested ETC serving territory would qualify it to receive no “high cost” USF support, but only “low income” USF support. In South Carolina, carriers seeking ETC designation only for the purpose of participation in the low-income programs are required, in lieu of the two-year improvement plan, to submit a two-year plan that describes the carrier's plans for advertising and outreach programs for identifying, qualifying, and enrolling eligible participants in the Lifeline and Link Up programs.

#### **H. Ability to Remain Functional in Emergency Situations**

In accordance with 47 CFR §54.202(a)(2), i-wireless, through its underlying carrier, has the ability to remain functional in emergency situations. Through its agreement with Sprint, i-wireless provides to its customers the same ability to remain functional in emergency situations as currently provided by the ILECs to their own customers, including access to a reasonable amount of back-up power rerouting of traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations.

#### **I. Commitment to Consumer Protection and Service Quality**

Under FCC guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards.<sup>34</sup> The Company commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards. Specifically, i-wireless commits to comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service. As a reseller, i-wireless' service is of the same quality and reliability as that of its underlying carrier(s).

#### **J. Local Usage Requirement**

An applicant for ETC designation must demonstrate that it offers a local usage plan that

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<sup>34</sup> See 47 C.F.R. § 54.202(a)(3).

is "comparable" to the plan offered by the ILEC in the relevant service territory.<sup>35</sup> In analyzing whether an ETC applicant's plan is comparable to the underlying ILEC's, the FCC reviews all aspects of the plan on a case-by-case basis, including the nature of the supported service, the size of the local calling area, the inclusion of additional services (e.g., caller I.D., etc.) and the amount of local usage.<sup>36</sup>

i-wireless' proposed Lifeline offering fully complies with the local usage requirements established by the FCC. i-wireless offers a variety of rate plans that provide its customers with local usage capabilities in the form of monthly plans, unlimited plans or pay-per-use plans—but without the burden of contracts, activation fees or roaming charges. Similar to ILEC Lifeline offerings, i-wireless customers will have the option to apply the Lifeline discount to the Company's retail rate plans and will have the option for unlimited local calling. Not only will i-wireless' offering be comparable to the underlying ILEC plans, but it also will exceed them in several respects. i-wireless will offer customers a certain amount of service free of charge. In contrast to the ILEC plans, which contain relatively small local calling areas, i-wireless customers can use these free minutes to place calls statewide (or even nationwide) because i-wireless does not constrict customers' use by imposing a local calling area requirement. i-wireless will also provide Lifeline customers with E911 capabilities and access to voice mail, caller I.D., and call waiting services at no cost.

#### **K. Equal Access Requirement**

The FCC's Rules also require an applicant for ETC status to provide a certification that it acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area (47 C.F.R § 54.202(a)).

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<sup>35</sup> 47 C.F.R. § 54.202(a)(4).

<sup>36</sup> See *Federal-State Joint Board on Universal Service*, Report and Order, 20 FCC Rcd 6371, 6385 (2005).



i-wireless acknowledges that it may be required to provide equal access to long distance carriers within its designated service area, and will abide by such a requirement.

**L. i-wireless Will Comply with the Lifeline Certification and Verification Requirements in 47 C.F.R. § 54.410**

Section 54.410 of the FCC's Rules requires ETCs to certify and verify a Lifeline customer's initial and continued eligibility. i-wireless will certify and verify consumer eligibility in accordance with the FCC's requirements and with applicable Commission rules governing certification and verification of Lifeline eligibility. i-wireless has contracted with Solix, a company that is very experienced in Lifeline program rules and regulations, to ensure that it is in compliance at all times.

**M. i-wireless Will Comply With All Regulations Imposed By The Commission**

By this Application, i-wireless hereby asserts its willingness and ability to comply with all the rules and regulations that the Commission may lawfully impose upon the Company's provision of service contemplated by this Application. i-wireless certifies that all federal USF funding received will be used for Lifeline support and will be flowed through to the direct benefit of eligible low income consumers. On behalf of its South Carolina customers, i-wireless currently contributes to the federal and state USF and remits all applicable surcharges and fees in South Carolina, including the E911 surcharge. i-wireless will likewise pay into the federal and state USF and emergency services fund for its Lifeline customers. i-wireless will comply with the Commission's annual reporting requirements set forth in S.C. Code Regulation 103-690.1. Upon Commission request, i-wireless is prepared to answer questions or present additional testimony or other evidence about its services within the state.

**V. DESIGNATION OF I-WIRELESS AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST**

One of the principal goals of the Act, as amended by the Telecommunications Act of



1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.<sup>37</sup> There is no question that designation of i-wireless as an ETC in South Carolina will further the public interest by providing South Carolina consumers, especially low-income consumers, with lower prices and higher quality services. Many low-income customers in South Carolina have yet to reap the full benefits of the intensely competitive wireless market. Whether because of financial constraints, poor credit history or intermittent employment, these consumers often lack the countless choices available to most consumers.

The instant request for ETC designation must be examined in light of the Act’s goal of providing low-income consumers with access to telecommunications services. The primary purpose of universal service is to ensure that consumers—particularly low-income consumers—receive affordable and comparable telecommunications services. Given this context, designating i-wireless as an ETC would significantly benefit low-income consumers eligible for Lifeline services in the State of South Carolina—the intended beneficiaries of universal service.

i-wireless’ Lifeline customers will receive the same high-quality wireless services and exceptional customer service provided to all Company customers. i-wireless’ Lifeline rate plans will not only allow feature-rich mobile connectivity for qualifying subscribers at no cost to the subscriber, but also will bring a variety of rate plans into the reach of Lifeline customers that are comparable in minutes and features to those available to post-paid wireless subscribers – but at low Lifeline rates and without the burden of credit checks, contracts, activation fees or roaming charges. i-wireless customers are able to choose a prepaid plan in which they are charged only for the minutes they use.

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<sup>37</sup> *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56.

The proposed i-wireless Lifeline offerings compare favorably with those of other competitive ETCs, but also offer the customer a novel variety of useful options. For example, i-wireless' offer of 150 free minutes is competitive with TracFone's Safelink service of 125 or 250 minutes, given i-wireless does not charge customers for customer care calls or incoming text messages and allows minutes to rollover. Alternatively, customers can put \$25 (approximately \$27.88 with tax) towards their account and receive unlimited calling. This option compares favorably with Virgin Mobile's Assurance plan whereby customers can add \$20 (plus an undisclosed amount of tax) for 1,000 minutes and 1,000 texts. In addition, customers are offered the flexibility of taking a dollar credit of \$15, in lieu of the minutes, and applying it towards the i-wireless retail plan of their choice (excluding a text only plan). Finally, i-wireless' affiliation with Kroger awards the consumer exclusive benefits, such as the Free Minutes program, and at the same time grants i-wireless both proximity to and unique insight into the Lifeline-eligible consumer.

i-wireless foresees that the implementation of its Lifeline program will create the need for i-wireless employees in South Carolina. Once its Lifeline program is underway, i-wireless intends to hire South Carolina residents as representatives who will work with store locations and distribution throughout the state.

Most importantly, i-wireless' Lifeline service will provide low-income South Carolina residents with the convenience and security offered by wireless services—even if their financial position deteriorates. i-wireless' prepaid wireless plans enable consumers to enjoy the benefits of wireless telecommunication without being subject to extensive credit reviews and long-term service commitments, which historically have limited the availability of wireless service to many Americans, including many South Carolinians. ETC designation in South Carolina would enable



i-wireless to offer appealing and affordable service offerings to low-income South Carolina customers to ensure that they are able to afford wireless services on a consistent and uninterrupted basis. Without question, prepaid wireless services have become essential for low-income customers, providing them with value for their money, access to emergency services on wireless devices, and a reliable means of contact for prospective employers, social service agencies or dependents. Providing i-wireless with the authority necessary to offer discounted Lifeline services to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

Moreover, grant of i-wireless' Application will serve the public interest in increasing the number of ETCs in South Carolina. By granting ETC status to i-wireless, the Commission will enable i-wireless to increase the number of South Carolina residents receiving Lifeline support, thereby increasing the amount of USF money flowing into South Carolina.

In sum, ETC designation in the State of South Carolina would enable i-wireless to provide all of the public benefits cited by the FCC in its analysis in the *Virgin Mobile Order*. Namely, i-wireless would provide "increased consumer choice, high-quality service offerings, and mobility,"<sup>38</sup> as well as the safety and security of effective 911 and E911 services.<sup>39</sup>

#### **A. The Benefits of Competitive Choice**

The benefits to consumers of being able to choose from among a variety of telecommunications service providers have been acknowledged by the FCC for more than three decades<sup>40</sup> and by the Commission since the early 1980s. Designation of i-wireless as an ETC will promote competition and innovation, and spur other carriers to target low-income consumers

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<sup>38</sup> See *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38.

<sup>39</sup> See *Id.* at 3391 ¶ 23.

<sup>40</sup> See, e.g., *Specialized Common Carrier Services*, 29 FCC Rcd 870 (1971).



reseller offering a service for low-income consumers represents a significant benefit for consumers and is in the public interest.”<sup>43</sup> “A new entrant should incent existing wireless reseller ETCs to offer better service and terms to their customers, which provides additional evidence that forbearance [associated with granting i-wireless’ *Petition for Forbearance*] in the context of the Lifeline program outweighs the potential costs.”<sup>44</sup>

## **VI. ANTI-DRUG ABUSE CERTIFICATION**

i-wireless certifies that no party to this Application is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

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<sup>43</sup> *i-wireless Forbearance Order*, ¶ 19.

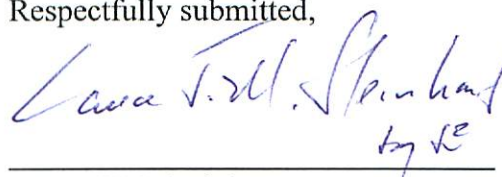
<sup>44</sup> *Id.*

## VII. CONCLUSION

Based on the foregoing, designation of i-wireless as an ETC in the State of South Carolina accords with the requirements of Section 214(e)(2) of the Act and is in the public interest.

WHEREFORE, i-wireless respectfully requests that the Commission promptly designate i-wireless as an ETC in the State of South Carolina solely for purposes of participating in the Lifeline program.

Respectfully submitted,



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*Attorneys for i-wireless, LLC*

February 25, 2011

**EXHIBIT 1**

**Certification of Patrick McDonough, Vice President, i-wireless, LLC**



State of Kentucky  
County of Campbell

)  
)  
)

### Certification

Personally appeared before the undersigned, an officer duly authorized to administer oaths, Patrick McDonough, who first being duly sworn, deposes and states that he is the Vice President of i-wireless, LLC, Applicant in this application, and has read the same and knows the contents thereof, and confirms that the statements made herein are true to the best of his knowledge and belief.

Dated: 12/7/2010



Patrick McDonough, Vice President

Subscribed and sworn to before me, a Notary Public in the State and County above named, this 7th day of December 2010.

(Notary Seal)



(Signature of person authorized to administer oath)

My Commission Expires: July 26, 2014



## EXHIBIT 2

### i-wireless, LLC Proposed Lifeline Rates

#### **Option 1: Lifeline 150 Minutes Plan\***

150 anytime minutes per month

(additional usage priced at 10 cent minutes and 10 cent text messages)

Net cost to Lifeline customer: \$0

*\*includes:*

- Free handset
- Free Voicemail, Caller-ID, and call waiting
- Free incoming text messages
- Free calls to Customer Service
- Free calls to 911 emergency services
- Free balance inquiries
- Up to 150 minutes can be rolled over to following month
- Customer can earn additional free minutes through Kroger Free Minute Loyalty Program

#### **Option 2: Lifeline 250 Minutes Plan\***

250 anytime minutes per month

(additional usage priced at 10 cent minutes and 10 cent text messages)

Net cost to Lifeline customer: \$0

*\*includes:*

- Free handset
- Free Voicemail, Caller-ID, and call waiting
- Free calls to 911 emergency services
- Free balance inquiries

*\*\*additional charges apply for:*

- incoming text messages (charge per text: 10 cents; one text message decrements one minute of use)
- calls to Customer Service (minutes decrement from customers 250 minutes)

*\*\*\*additional restrictions:*

- Minutes cannot be rolled over to next month
- Customer not eligible to earn additional minutes through the Kroger Free Minute Loyalty Program

### **Option 3: Lifeline \$15 Retail Discount Plan\***

Lifeline eligible customers may choose any i-wireless monthly retail plan (excluding text only plans) at a \$15 discount. The following retail monthly plans will be available as of February 2011:

#### **Talk Plans (monthly)**

- 200 anytime minutes, unlimited text messages, and 200 megabytes of data (web browsing and e-mail on capable phones) (additional usage priced at 10 cent minutes)  
Net cost to Lifeline customer: **\$10** (plus applicable taxes and fees)
- 1,000 minutes, unlimited text messages and 500 megabytes of data (web browsing and e-mail on capable phones) (additional usage priced at 10 cent minutes)  
Net cost to Lifeline customer: **\$25** (plus applicable taxes and fees)
- Unlimited talk, unlimited text messages and 2.5 gigabytes of data (web browsing and e-mail on capable phones)  
Net cost to Lifeline customer: **\$45** (plus applicable taxes and fees)

#### *\*includes:*

- Free handset
- Free Voicemail, Caller-ID and call waiting
- Free incoming text messages
- Free calls to Customer Service
- Free calls to 911 emergency services
- Free balance inquiries
- Up to 1500 minutes can be rolled over to next month
- Customer can earn additional free minutes through Kroger Free Minute Loyalty Program



**EXHIBIT 3**

*i-wireless Forbearance Order*

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Telecommunications Carriers Eligible for	)	WC Docket No. 09-197
Universal Service Support	)	
	)	
i-wireless, LLC Petition for Forbearance from 47	)	
U.S.C. § 214(e)(1)(A)	)	

**ORDER**

**Adopted: June 22, 2010**

**Released: June 25, 2010**

By the Commission:

**I. INTRODUCTION**

1. In this order, we grant in part and deny in part a petition for forbearance filed by i-wireless, LLC (i-wireless), a prepaid wireless resale provider, requesting that the Commission forbear from the requirement that a carrier designated as an eligible telecommunications carrier (ETC) for purposes of federal universal service support provide services, at least in part, over its own facilities.<sup>1</sup> As a result, i-wireless may seek ETC designation to offer discounted service to qualified low-income consumers through the universal service Lifeline program. i-wireless will be subject to the same conditions that the Commission previously applied to prepaid wireless resellers TracFone Wireless, Inc. and Virgin Mobile USA, L.P. in granting similar requests. The conditions will help to ensure that, if i-wireless is granted ETC designation for the purpose of providing Lifeline service, its low-income consumers have access to 911 and enhanced 911 services and will help to protect the universal service fund against waste, fraud and abuse. However, we deny i-wireless's petition for forbearance for the purposes of participating in the Link Up program because the company has not demonstrated that granting its request satisfies the three-prong statutory test for forbearance.<sup>2</sup>

**II. BACKGROUND**

2. Congress directed the Commission to establish the universal service fund to help ensure that "[q]uality services [are] available at just, reasonable, and affordable rates" for consumers throughout the nation, "including low-income consumers."<sup>3</sup> The Commission's Lifeline program furthers this goal by reducing the price of monthly telephone service for low-income consumers, and the Commission's

<sup>1</sup> i-wireless, LLC Petition for Forbearance, CC Docket No. 96-45 (filed Apr. 1, 2009) (Forbearance Petition). On March 23, 2010, pursuant to section 10(c) of the Act, the Wireline Competition Bureau (Bureau) extended until June 30, 2010, the date on which the Forbearance Petition shall be deemed granted in the absence of a Commission decision that the petition fails to meet the standard for forbearance under section 10(a) of the Act. *i-wireless, LLC Petition for Forbearance*, CC Docket No. 96-45, Order, 25 FCC Rcd 2762 (Wireline Comp. Bur. 2010); 47 U.S.C. § 214(e).

<sup>2</sup> 47 U.S.C. § 160(a).

<sup>3</sup> 47 U.S.C. § 254(b)(3).



Link Up program furthers this goal by reducing the customary connection charge for commencing telephone service at a low-income consumer's principal place of residence.<sup>4</sup>

3. The Communications Act of 1934, as amended (the Act), provides that only an entity designated as an eligible telecommunications carrier shall be eligible for universal service high-cost and low-income support.<sup>5</sup> To become an ETC, a common carrier must offer the services supported by the federal universal service support mechanisms "either using its own facilities or a combination of its own facilities and resale of another carrier's services" to each customer in its designated service area.<sup>6</sup> Carriers designated as ETCs generally must participate in the Lifeline and Link Up programs and are reimbursed for the revenues foregone through their participation in these programs.<sup>7</sup>

4. The Commission has granted two petitions for forbearance from the facilities requirement for ETC designation in section 214(e) of the Act. In 2005, the Commission forbore from applying the facilities requirement to TracFone Wireless, Inc. (TracFone), a wireless reseller, insofar as TracFone sought ETC designation only for the purpose of receiving Lifeline support.<sup>8</sup> Similarly, in 2009, the Commission forbore from applying the facilities requirement to another wireless reseller, Virgin Mobile USA, L.P. (Virgin Mobile).<sup>9</sup> In both orders, the Commission conditioned forbearance on the carriers' meeting certain obligations upon being designated as an ETC that are tailored to the concerns arising from each carrier's lack of facilities and proposed service offering.<sup>10</sup>

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<sup>4</sup> Through the Lifeline program, low-income consumers may receive discounts of up to \$13.50 off the monthly cost of telephone service, with the federal program reimbursing the ETC up to \$10 each month. 47 C.F.R. § 54.401(a)(2). In tribal areas, the federal program reimburses ETCs up to an additional \$25 each month. 47 C.F.R. § 54.405(a)(4). Through the Link Up program, low-income consumers may receive discounts of up to \$30 off the connection charge. 47 C.F.R. § 54.411(a)(1). In tribal areas, low-income consumers may receive up to an additional \$70 off the connection charge. 47 C.F.R. § 54.411(a)(3).

<sup>5</sup> 47 U.S.C. § 254(e). A carrier need not be an ETC to participate in the schools and libraries or rural health care universal service programs. 47 U.S.C. § 254(h)(1)(A) and (B)(ii); see *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9015, para. 449 (1997) (*Universal Service First Report and Order*) (subsequent history omitted); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-46, Fourteenth Order on Reconsideration, 14 FCC Rcd 20106, 20114-15, para. 19 (1999) (*Fourteenth Order on Reconsideration*).

<sup>6</sup> 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d)(1). Because a carrier need not be an ETC to participate in the schools and libraries or rural health care universal service programs, a carrier need not offer service over its own facilities to receive support from those programs. See *supra* note 5.

<sup>7</sup> See 47 C.F.R. § 54.407(b)-(c). ETCs designated for the limited purpose of participating in the Lifeline program, in contrast, may only receive Lifeline support.

<sup>8</sup> *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) (*TracFone Forbearance Order*).

<sup>9</sup> *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petition for Designation as an Eligible Telecommunications Carrier in the State of New York; Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia; Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of North Carolina; Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Tennessee*, CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009) (*Virgin Mobile Forbearance Order*).

<sup>10</sup> Specifically, each carrier must: (1) provide its Lifeline customers with 911 and enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes; (2) provide its Lifeline customers with E911-compliant handsets and replace, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (3) comply with conditions (1) and (2) as of the date it provides Lifeline service; (4) obtain a certification from each public-safety answering point (PSAP) where the carrier provides Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certify that it does so if certain conditions are met; (5) require each customer to self-certify at time of service activation and (continued . . .)



5. *i-wireless Forbearance Petition.* Like Tracfone and Virgin Mobile, i-wireless is a non-facilities-based commercial mobile radio service (CMRS) provider (i.e., a pure wireless reseller) that provides prepaid wireless telecommunications services.<sup>11</sup> On April 1, 2009, i-wireless filed a petition seeking forbearance from the facilities requirement of section 214(e) of the Act so that it may be designated as an ETC and be eligible to receive Lifeline and Link Up low-income support.<sup>12</sup> i-wireless states that its request for forbearance satisfies the statutory requirements and is in the public interest.<sup>13</sup> Further, i-wireless agrees to abide by the conditions imposed on TracFone and Virgin Mobile as part of the Commission's decisions granting those carriers' requests to forbear from the ETC facilities requirement to allow them to receive Lifeline support only.<sup>14</sup>

### III. DISCUSSION

6. The Act requires the Commission to forbear from applying any requirement of the Act or of our regulations to a telecommunications carrier if and only if the Commission determines that: (1) enforcement of the requirement is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier are just and reasonable and are not unjustly or unreasonably discriminatory; (2) enforcement of that requirement is not necessary for

(continued from previous page) \_\_\_\_\_  
annually thereafter that he or she is the head of household and receives Lifeline-supported service only from that carrier; (6) establish safeguards to prevent its customers from receiving multiple Lifeline subsidies from that carrier at the same address; (7) deal directly with the customer to certify and verify the customer's Lifeline eligibility; and (8) submit to the Wireline Competition Bureau a compliance plan outlining the measures the carrier will take to implement these conditions. *See id.* at 3386–87, 3392, paras. 12, 26; *TracFone Forbearance Order*, 20 FCC Rcd at 15098–99, 15104, paras. 6, 19; *Federal-State Joint Board on Universal Service*; *TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of New York*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of Florida*; *Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of Connecticut*; *Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Massachusetts*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of Tennessee*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of Delaware for the Limited Purpose of Offering Lifeline Service to Qualified Households*; *Petition for Designation as an Eligible Telecommunications Carrier in the State of New Hampshire for the Limited Purpose of Offering Lifeline Service to Qualified Households*; *Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania for the Limited Purpose of Offering Lifeline Service to Qualified Households*; *Petition for Designation as an Eligible Telecommunications Carrier in the District of Columbia for the Limited Purpose of Offering Lifeline Service to Qualified Households*, CC Docket No. 96-45, Order, 24 FCC Rcd 3375 (2009) (*TracFone Forbearance Modification Order*).

<sup>11</sup> Forbearance Petition at 2.

<sup>12</sup> *See* Forbearance Petition. On June 5, 2009, the Bureau issued a public notice seeking comment on the Forbearance Petition. *Comment Sought on i-wireless, LLC Petition for Forbearance from Eligible Telecommunications Carrier Facilities Requirement*, CC Docket No. 96-45, Public Notice, 24 FCC Rcd 7682 (Wireline Comp. Bur. 2009). Comments on the Forbearance Petition were filed by the National Association of State Utility Consumer Advocates (NASUCA) and the National Emergency Number Association (NENA). Reply comments were filed by NASUCA, i-wireless, and the Pennsylvania Public Utility Commission (Pennsylvania Commission). We interpret i-wireless's petition to request forbearance not only from the statutory facilities requirement, 47 U.S.C. § 214(e)(1)(A), but also from our parallel regulatory requirements, 47 C.F.R. § 54.201(d)(1), (i). We have previously read these requirements to have the same scope and purpose as the statutory provision. *See Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3386–87 n.41.

<sup>13</sup> Forbearance Petition at 8–13.

<sup>14</sup> Forbearance Petition at 13; *TracFone Forbearance Order*, 20 FCC Rcd at 15098–99, 15104, paras. 6, 19; *Virgin Mobile Forbearance Order*, 24 FCC Rcd 3386–87, 3392, paras. 12, 26.



the protection of consumers; and (3) forbearance from applying that requirement is consistent with the public interest.<sup>15</sup> As in the *TracFone Forbearance Order* and the *Virgin Mobile Forbearance Order*, we examine the facilities requirement from which i-wireless seeks forbearance in light of the statutory goal of providing low-income consumers with access to telecommunications services and in light of the specific programs in which i-wireless seeks to participate. Because our prior orders have laid the path for examining forbearance requests in the context of the Lifeline program, we first evaluate i-wireless's petition in that context. We then turn to the new issue of whether i-wireless has demonstrated that the statutory requirements for forbearance are met in the context of the Link Up program.

**A. Forbearance for Lifeline**

7. In this section, we evaluate whether i-wireless has met the three-prong statutory test for forbearance to receive Lifeline support. For the reasons provided below, we conditionally grant the request of i-wireless for forbearance from the facilities requirement of section 214(e) for the purpose of seeking ETC designation to provide Lifeline support only.

8. *Just and Reasonable.* As an initial matter, we note that a provision or regulation is "necessary" if there is a strong connection between the requirement and regulatory goal.<sup>16</sup> Section 10(a)(1) of the Act requires that we consider whether enforcement of the facilities-based requirement of section 214(e) for a pure wireless reseller that seeks ETC designation for Lifeline support only is necessary to ensure that the charges, practices, classifications or regulations are just and reasonable and not unjustly or unreasonably discriminatory.<sup>17</sup>

9. As the Commission found in the *TracFone Forbearance Order* and the *Virgin Mobile Forbearance Order*, we conclude that the section 214(e) facilities requirement is not necessary to ensure that i-wireless's charges, practices, and classifications are just and reasonable and not unjustly or unreasonably discriminatory where it is providing Lifeline service only.<sup>18</sup> As a reseller, i-wireless is by definition subject to competition. We expect that i-wireless's Lifeline offerings will compete, at a minimum, with the Lifeline offerings of the incumbent wireline carrier in a given geographic area, and potentially, depending on the states where i-wireless seeks ETC designation, with the offerings of TracFone and Virgin Mobile.<sup>19</sup> We also expect that this competition will spur innovation amongst carriers in their Lifeline offerings, expanding the choice of Lifeline products for eligible consumers. For these reasons, we find that the first prong of section 10(a) is met. In the limited context of Lifeline support, the facilities requirement is not necessary to ensure that i-wireless's charges, practices, and classifications are just and reasonable.

10. *Consumer Protection.* Section 10(a)(2) requires that we consider whether enforcement of the facilities-based requirement of section 214(e) for a pure wireless reseller that seeks ETC designation only for Lifeline support is necessary for the protection of consumers. As in the cases of TracFone and Virgin Mobile, we find that imposing the facilities requirement on i-wireless is not necessary for the protection of consumers so long as the carrier complies with the obligations described below. Specifically, we conclude that forbearance from this provision will benefit consumers. Indeed, if i-wireless is ultimately granted limited ETC status, it would be offering Lifeline-eligible consumers an additional choice of providers for accessing telecommunications services. The prepaid feature may be an

<sup>15</sup> 47 U.S.C. § 160(a)–(b). In making a public interest determination, section 10(b) requires the Commission to consider whether forbearance will promote competitive market conditions.

<sup>16</sup> See *CTIA v. FCC*, 330 F.3d 502, 512 (D.C. Cir. 2003).

<sup>17</sup> 47 U.S.C. § 160(a)(1); 47 U.S.C. § 214(e).

<sup>18</sup> See *TracFone Forbearance Order*, 20 FCC Rcd at 15100, para. 12; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3389, para. 20.

<sup>19</sup> See 47 C.F.R. § 54.405(a) (requiring ETCs to offer Lifeline service).



attractive alternative for such consumers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts.

11. Given the importance of public safety and in light of the fact that a Lifeline ETC is generally a low-income customer's only connection to the public switched telephone network, however, we condition this grant of forbearance on i-wireless's compliance with certain obligations upon being designated as an ETC, consistent with the public safety obligations previously imposed on TracFone and Virgin Mobile.<sup>20</sup> Specifically, our forbearance is conditioned on i-wireless:

- (1) providing its Lifeline customers with 911 and enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes;
- (2) providing its Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service;
- (3) complying with conditions (1) and (2) as of the date it provides Lifeline service; and
- (4) obtaining a certification from each PSAP where the carrier seeks to provide Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met.

12. The Commission has an obligation to promote "safety of life and property" and to "encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure" for public safety.<sup>21</sup> The provision of 911 and E911 services is critical to our nation's ability to respond to a host of crises, and this Commission has a longstanding and continuing commitment to a nationwide communications system that promotes the safety and welfare of all Americans, including Lifeline customers.<sup>22</sup> As we have held previously, we believe these obligations are necessary to ensure that the Lifeline customers of these wireless resellers have meaningful access to emergency services.<sup>23</sup>

13. Consistent with the obligations we have placed on TracFone and Virgin Mobile, these obligations apply in any state in which i-wireless becomes an ETC and plans to serve any customers without using its own facilities. Additionally, i-wireless must furnish to the Commission upon request copies of all certifications required by the fourth obligation.<sup>24</sup> Furthermore, if i-wireless seeks to use the self-certification option, it may do so only after complying with the following procedures. *First*, i-wireless must request certification from the PSAP and notify the PSAP that the carrier may self-certify compliance if the PSAP has neither provided certification nor made an affirmative finding that the carrier does not provide its customers with access to 911 and E911 service within the PSAP's service area within 90 days of the request. This evaluation period commences upon proper notification.<sup>25</sup> The evaluation

<sup>20</sup> See *TracFone Forbearance Order*, 20 FCC Rcd at 15101-02, paras. 15-16; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3390-91, paras. 21-23.

<sup>21</sup> *Applications of Nextel Communications, Inc. and Sprint Corporation For Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 05-63, Memorandum Opinion and Order, 20 FCC Rcd 13967, 14020, para. 144 (2005).

<sup>22</sup> *Id.*

<sup>23</sup> See *TracFone Forbearance Order*, 20 FCC Rcd at 15101-02, paras. 15-16; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3390-91, para. 21-23.

<sup>24</sup> See *Virgin Mobile ETC Designation Order*, 24 FCC Rcd at 3390, para. 22.

<sup>25</sup> *Id.* at 3390-91, para. 22. Consistent with the *Virgin Mobile Forbearance Order*, in providing notice that it may self-certify, i-wireless must provide a PSAP with all of the information and/or equipment requested by the PSAP in analyzing i-wireless's ability to provide 911 and E911 to its customers.



period is tolled whenever a PSAP reasonably requests information or equipment to evaluate the carrier's request until the carrier responds with that information or equipment.<sup>26</sup> If a PSAP determines that the carrier will not offer its Lifeline customers appropriate access to emergency services or has concerns regarding the carrier's ability and if the PSAP notifies the carrier of its concerns during the evaluation period, the evaluation period is extended by an additional 90 days and the carrier may not self-certify compliance until it has addressed the PSAP's concerns.<sup>27</sup> *Second*, before self-certifying, the carrier must obtain from its underlying carrier in that area certification that the underlying carrier routes emergency calls from the carrier's customers to the PSAP in the same manner that it routes emergency calls from its own customers.<sup>28</sup> *Third*, the carrier must provide the PSAP with a copy of the relevant self-certifications at the time it is effective.<sup>29</sup> *Fourth*, if a PSAP finds that i-wireless does not provide its customers with 911 and E911 access after the carrier has self-certified that it does, the carrier must notify the Commission of this finding upon receiving notice and must explain how it plans to meet the PSAP's concerns and provide Lifeline customers with appropriate 911 and E911 access.<sup>30</sup>

14. Accordingly, we find that, subject to the 911 and E911 conditions and the self-certification and other conditions set out above, and consistent with the Commission's grant of forbearance to TracFone and Virgin Mobile, the ETC facilities-based requirement is not necessary for consumer protection with respect to i-wireless's receipt of Lifeline support only. We therefore conclude that the second element of section 10(a) is satisfied.

15. *Public Interest.* Section 10(a)(3) requires that we consider whether enforcement of the facilities-based requirement of section 214(e) for a pure wireless reseller that seeks ETC designation for Lifeline support only is in the public interest. In evaluating whether forbearance is in the public interest, we follow the path we laid out in the *TracFone Forbearance Order* and the *Virgin Mobile Forbearance Order*. We note first that the Commission's traditional concern with a carrier doubling its recovery by reselling facilities that are already supported by the high-cost fund does not apply in the low-income context.<sup>31</sup> We also note that Lifeline support is designed to reduce the monthly cost of telecommunications service for qualifying low-income consumers and is directly reflected in the price that the low-income customer pays.<sup>32</sup> Requiring a Lifeline provider to own the facilities it uses to offer service does not necessarily further the statutory goal of the low-income program.<sup>33</sup> In accordance with our forbearance grants to TracFone and Virgin Mobile, we find that the public interest is served by forbearing from the facilities requirement in section 214(e) to allow i-wireless to receive Lifeline support.<sup>34</sup>

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<sup>26</sup> *Id.* at 3391, para. 22.

<sup>27</sup> *Id.* at 3390 n.67.

<sup>28</sup> *Id.* at 3391, para. 22. Like other certifications, the carrier is required to retain these underlying carrier certifications and provide them to the Commission upon request.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> See *TracFone Forbearance Order*, 20 FCC Rcd at 15100-01, para. 12; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3389, para. 18.

<sup>32</sup> 47 C.F.R. §§ 54.401, 54.504.

<sup>33</sup> See *TracFone Forbearance Order*, 20 FCC Rcd at 15104-05, para. 23; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3393, para. 29.

<sup>34</sup> See *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3392-93, para. 27 ("[W]e do not believe that similar requests will have a detrimental impact on the fund. We note that to the extent any similarly situated prepaid wireless reseller seeks forbearance from these requirements for the purpose of providing only Lifeline support, it (continued . . .)



16. Continued growth of the universal service fund has highlighted in recent years the importance of the Commission's continued commitment to fight waste, fraud, and abuse. Accordingly, in addition to the consumer protection conditions outlined above and consistent with obligations imposed on TracFone and Virgin Mobile, we find that it is necessary to require i-wireless to assume additional obligations designed to protect against waste, fraud, and abuse.<sup>35</sup> Specifically, we condition our forbearance from the facilities requirement on i-wireless:

- (5) requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from that carrier;
- (6) establishing safeguards to prevent its customers from receiving multiple Lifeline subsidies from that carrier at the same address;
- (7) dealing directly with the customer to certify and verify the customer's Lifeline eligibility; and
- (8) submitting to the Wireline Competition Bureau a compliance plan outlining the measures the carrier will take to implement the obligations contained in this order within 30 days of the effective date of this order.

17. As we have held previously, we believe these obligations are necessary safeguards to help deter waste, fraud, and abuse.<sup>36</sup> These obligations apply in any state in which i-wireless becomes an ETC and plans to serve any customers without using its own facilities. Consistent with the obligations we have placed on TracFone and Virgin Mobile, we require i-wireless to clearly state the penalties for perjury on the self-certification form it uses to comply with the fifth obligation and to monitor compliance of its customers' self-certifications by retaining those self-certifications and providing them, as well as documentation of how the carrier obtained the certification, to the Commission upon request.<sup>37</sup>

18. We disagree with parties that argue that we should condition our forbearance on i-wireless complying with additional obligations, such as offering a particular usage package or complying with state-level 911 and E911 obligations.<sup>38</sup> We believe it is appropriate to leave those assessments to whichever commissions will rule on i-wireless's petitions for designation as an ETC. A state commission is generally in a better position than we to assess whether a particular offering will benefit that state's low-income consumers and to determine whether it is necessary to condition ETC designation on compliance with state-level 911 and E911 obligations.<sup>39</sup> We therefore encourage parties arguing for

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will be expected to comply with all the conditions we imposed upon TracFone, which Virgin Mobile has agreed to do.”).

<sup>35</sup> See *TracFone Forbearance Order*, 20 FCC Rcd at 15103–04, 15105, paras. 18, 25; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3392, para. 25.

<sup>36</sup> These obligations are in addition to, and do not supplant, the certification and verification eligibility already required by our rules for federal default states and any similar state rules for the non-federal default states. See, e.g., 47 C.F.R. § 54.410. On May 4, 2010, the Commission asked the Federal-State Joint Board on Universal Service to review the Commission's eligibility, verification, and outreach rules for the Lifeline and Link Up universal service programs. See *Federal-State Joint Board on Universal Service; Lifeline and Link Up*, CC Docket No. 96-45, WC Docket No. 03-109, Order, 25 FCC Rcd 5079 (2010).

<sup>37</sup> See *TracFone Forbearance Order*, 20 FCC Rcd at 15103–04, 15105, paras. 18, 25; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3392, para. 25 & n.74.

<sup>38</sup> See, e.g., NASUCA Comments at 4–5 (arguing that forbearance is inappropriate unless i-wireless explains how it will apply the Lifeline discount to its plans); NENA Comments at 1–2 (arguing that carriers seeking forbearance should commit to complying with state-level 911 and E911 obligations as a condition of forbearance).

<sup>39</sup> Of course, if a state commission does not have jurisdiction to designate i-wireless as a limited-purpose ETC, we will consider i-wireless's application as well as whether any additional obligations are necessary for that particular designation to be in the public interest. See 47 U.S.C. § 214(e)(6).



additional obligations to redirect their arguments to ETC designation proceedings rather than this proceeding.

19. Similarly, we are not persuaded by comments regarding the impact on the size of the universal service fund and the associated contribution obligation if we grant the forbearance petition.<sup>40</sup> Granting forbearance here would allow i-wireless to compete with TracFone and Virgin Mobile (as well as other ETCs) for the existing pool of low-income customers, and the size of that pool is determined by Lifeline program eligibility requirements, not by the number of providers competing for those customers. The additional choice and service options of another wireless reseller offering a service for low-income consumers represents a significant benefit for consumers and is in the public interest. A new entrant should incent existing wireless reseller ETCs to offer better service and terms to their customers, which provides additional evidence that forbearance in the context of the Lifeline program outweighs the potential costs.<sup>41</sup>

20. In conclusion, we find that conditionally granting i-wireless forbearance for purposes of seeking ETC designation to participate in the Lifeline program only will further the statutory goal of providing low-income subscribers access to telecommunications and emergency services, while protecting the universal service fund against waste, fraud, and abuse.<sup>42</sup> To the extent, however, that our predictive judgment proves incorrect and these conditions prove to be inadequate safeguards, parties may file appropriate petitions with the Commission and we have the option of reconsidering this forbearance ruling.<sup>43</sup>

#### **B. Forbearance for Link Up**

21. We decline to grant the request of i-wireless for forbearance from the facilities requirement for the purpose of seeking ETC designation to receive Link Up support.<sup>44</sup> Petitioners seeking forbearance bear the burden of proof and must show that each of the statutory elements of forbearance is met.<sup>45</sup> i-wireless has not done so in the context of the Link Up program. Specifically, i-wireless does not

<sup>40</sup> See Pennsylvania Commission Reply at 5–6.

<sup>41</sup> For example, Virgin Mobile (the second wireless reseller to receive forbearance) has recently increased the number of minutes it offers to low-income consumers through its Lifeline product to attract more customers. Compare, e.g., Pennsylvania Commission Reply, CC Docket No. 96-45, at 6 n.16 (filed July 20, 2009) (noting that Virgin Mobile planned to offer 120 free prepaid minutes to Lifeline customers), with Virgin Mobile Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Alabama, WC Docket No. 09-197, at 8 (filed Jan. 15, 2010) (noting that Virgin Mobile plans to offer 200 free prepaid minutes to its Lifeline customers).

<sup>42</sup> i-wireless has committed to complying with all the obligations imposed on TracFone and Virgin Mobile as conditions of forbearance. See Forbearance Petition at 13.

<sup>43</sup> See *Petition for Forbearance of the Verizon Telephone Companies Pursuant to 47 U.S.C. § 160(c)*, WC Docket No. 01-338, Memorandum Opinion and Order, 19 FCC Rcd 21496, 21508–09, para. 26 & n.85 (2004); see also *Petition of SBC Communications Inc. for Forbearance from Structural Separations Requirements of Section 272 of the Communications Act of 1934, As Amended, and Request for Relief to Provide International Directory Assistance Services*, CC Docket No. 97-172, Memorandum Opinion and Order, 19 FCC Rcd 5211, 5223–24, para. 19 & n.66 (2004); *Cellnet Communications, Inc. v. FCC*, 149 F.3d 429, 442 (6th Cir. 1998).

<sup>44</sup> See Forbearance Petition at 8–14.

<sup>45</sup> See, e.g., *Petition to Establish Procedural Requirements to Govern Proceedings for Forbearance under Section 10 of the Communications Act of 1934, As Amended*, WC Docket No. 07-267, Report and Order, 24 FCC Rcd 9543, 9554–55, para. 20 (2009) (“We now state explicitly that the burden of proof is on forbearance petitioners at the outset and throughout the proceeding.”); *Petitions of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Denver, Minneapolis-St. Paul, Phoenix, and Seattle Metropolitan Statistical Areas*, WC Docket No. 07-97, Memorandum Opinion and Order, 23 FCC Rcd 11729, 11750, 11754–58, paras. 28, 36, 39 (2008) (noting that Qwest had failed to meet its burden of persuasion regarding sufficiency of market share).



address in its petition the differences between the Lifeline and Link Up programs, nor does the company explain how the obligations conditional to Lifeline participation would apply in the context of Link Up. Moreover, i-wireless does not explain how the public interest would be served by forbearing from the facilities requirement in this context.<sup>46</sup> General references to the statutory goal of ensuring that low-income consumers have access to telecommunications services do not suffice to replace a particularized argument regarding the facts and policy surrounding the facilities requirement and the Link Up program.<sup>47</sup> We thus conclude that i-wireless has failed to meet its burden to show that forbearing from the facilities requirement in the context of the Link Up program is in the public interest.<sup>48</sup>

#### IV. ORDERING CLAUSES

22. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 214, 254, the petition for forbearance filed by i-wireless Telecom, LLC IS GRANTED IN PART to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order and otherwise DENIED.

23. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 214, 254, we forbear from applying sections 54.201(d)(1) and 54.201(i) of the Commission's rules, 47 C.F.R. § 54.201(d)(1), (i), to i-wireless Telecom, LLC to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

24. IT IS FURTHER ORDERED that, pursuant to section 1.103(a) of the Commission's rules, 47 C.F.R. § 1.103(a), this order SHALL BE effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>46</sup> See Forbearance Petition at 8–14 (discussing Link Up only in the context of its discussion of Lifeline).

<sup>47</sup> See *Amendment of the Commission's Rules Concerning Maritime Communications*, PR Docket No. 92-257, Third Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 19853, 19879–80, para. 55 (1998) (“MariTEL’s request cannot be granted because it is too vague, both as to the specific provisions from which we should forbear from enforcing, and as to why forbearance would be in the public interest.”).

<sup>48</sup> Because we find that i-wireless has not met its burden of proof on the third statutory element, we do not examine whether it did so on the first or second elements.

**EXHIBIT 4**

**i-wireless Compliance Plan**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of the	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Telecommunications Carriers Eligible for	)	WC Docket No. 09-197
Universal Service Support	)	
	)	
i-wireless, LLC Petition for Forbearance from 47	)	
U.S.C. § 214(e)(1)(A)	)	

**I-WIRELESS, LLC'S COMPLIANCE PLAN**

i-wireless, LLC ("i-wireless" or the "Company"), by its attorney, hereby files its plan outlining the measures it will take to implement the conditions imposed by the Federal Communications Commission ("Commission") in its recent Order, released June 25, 2010, in the above-captioned matter<sup>1</sup>. Given the severe economic environment that is forcing many lower-income customers to forego wireless service, i-wireless respectfully requests expeditious approval of this plan so that the Company, upon designation as an Eligible Telecommunications Carrier ("ETC"), may quickly deploy much-needed Lifeline services to many low-income customers.

**BACKGROUND**

The Commission's *Order* conditionally granted i-wireless' request for forbearance from the Section 214(e)(1)(A) requirement that a carrier designated as an ETC for purposes of federal universal service support provide services, at least in part, over its own facilities, stating "i-wireless may seek ETC designation to offer discounted services to qualified low-income consumers through the universal service Lifeline program<sup>2</sup>." The petition for forbearance was denied for the purposes of participating in the Link Up program.

The Commission found that a conditional grant of forbearance for i-wireless from the facilities requirement of section 214(e) for the purpose of seeking ETC designation to provide Lifeline support only "will further the statutory goal of providing low-income subscribers access to

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<sup>1</sup> See *Federal-State Joint Board on Universal Service; In the Matter of i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, Order, FCC 10-117, released June 25, 2010 ("Order").

<sup>2</sup> Order at ¶ 1.



telecommunications and emergency services, while protecting the universal service fund against waste, fraud and abuse<sup>3</sup>.” The Commission’s grant of forbearance is subject to the following conditions: (a) i-wireless providing its Lifeline customers with 911 and Enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes; (b) i-wireless providing its Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (c) i-wireless complying with conditions (a) and (b) as of the date it provides Lifeline service; and (d) i-wireless obtaining a certification from each PSAP where the carrier seeks to provide Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met; (e) i-wireless requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from i-wireless; (f) i-wireless establishing safeguards to prevent its customers from receiving multiple Lifeline subsidies from i-wireless at the same address; and (g) i-wireless dealing directly with the customer to certify and verify the customer’s Lifeline eligibility<sup>4</sup>. The Commission required i-wireless to submit a plan describing the measures it would take to implement each one of these conditions within thirty days of the release of the Order<sup>5</sup>.

### **COMPLIANCE PLAN**

i-wireless commends the Commission’s commitment to a nationwide communications system that promotes the safety and welfare of all Americans, including Lifeline customers<sup>6</sup>. i-wireless will comply with all conditions set forth in the *Order*, the provision of this Compliance Plan, and all laws and regulations governing its provision of Lifeline-supported prepaid wireless service to customers throughout the United States.

#### **I. Access to 911 and E911 Services**

In the *Order*, the Commission required i-wireless to provide its Lifeline customers with access to 911 and E911 services immediately upon activation of service, and stated that, in order to demonstrate compliance with the condition, i-wireless must obtain certification from each PSAP

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<sup>3</sup> *Order* at ¶ 20.

<sup>4</sup> *See Order* at ¶¶ 11, 16.

<sup>5</sup> *See id.*

<sup>6</sup> *See Order* at ¶ 12.

where it provides Lifeline service confirming that its customers receive 911 and E911 services. If within 90 days of i-wireless' request, a PSAP has neither provided the certification nor made an affirmative finding that the Company does not provide its customers with 911 and E911 services within the applicable service area, the *Order* allowed i-wireless to self-certify that it meets the requirements<sup>7</sup>. The Commission and consumers are hereby assured that all i-wireless customers will have available access to emergency calling services at the time that Lifeline service is initiated, and that such 911 and E911 access will be available from i-wireless handsets, even if the account associated with the handset has no minutes remaining.

i-wireless can ensure the Commission that all Lifeline customers will have meaningful access to emergency calling services at the time the customer activates Lifeline service, and that such access will continue regardless of the customer's account status or the availability of prepaid minutes. The Company's existing practices currently provide access to 911 and E911 services to the extent that these services have been deployed by its underlying carrier, Sprint Nextel ("Sprint"). i-wireless also currently enables 911 emergency calling services for all properly activated handsets regardless of whether the account associated with the handset is active, suspended or terminated. Finally, the Company transmits all 911 calls initiated from any of its handsets even if the account associated with the handset has no remaining minutes.

To satisfy the conditions of the *Order* regarding 911 and E911 services, i-wireless will implement the following measure prior to deploying Lifeline services in a given area. Initially, the Company will confirm that its underlying carrier has deployed E911 services in a specific PSAP territory. i-wireless will obtain the requisite certification from each PSAP where it provides Lifeline service confirming that its customers receive 911 and E911 services<sup>8</sup>. If within 90 days of receiving the Company's request, a PSAP has neither provided such certification nor made an affirmative finding that the Company does not provide its customers with 911 and E911 services within the applicable service area, i-wireless will self-certify that it meets the basic and E911 requirements.

## **II. E911-Compliant Handsets**

The Commission also conditioned its grant of forbearance determination on i-wireless providing only E911-compliant handsets to its Lifeline customers<sup>9</sup>. i-wireless will ensure that all

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<sup>7</sup> See *Order* at ¶ 13.

<sup>8</sup> A form of this PSAP certification request is attached hereto as Exhibit A.

<sup>9</sup> See *Order* at ¶ 11.



handsets used in connection with the Lifeline service offering will be E911-compliant. In fact, i-wireless' phones have always been and will continue to be 911 and E911-compliant. i-wireless uses phones from Sprint that have been through a stringent certification process in Sprint's handset certification lab, which ensures that the handset models used meet all 911 and E911 requirements. In i-wireless' four year history, only one handset model has failed the E911 process during the handset lab certification, and that is a model the Company did not launch. As a result, any existing customer that qualifies for and elects Lifeline service will already have a 911/E911-compliant handset, which will be confirmed at the time of enrollment in the Lifeline program. Furthermore, in the event that an existing customer does not have an E911-compliant handset, the Company will replace it with a new 911/E911-compliant handset at no charge to the customer. Any new customer that qualifies for and enrolls in the Lifeline program is assured of receiving a 911/E911-compliant handset as well, free of charge.

### **III. Certification of Lifeline Customers' Eligibility**

To safeguard against misuse of the Lifeline service plan, the *Order* required i-wireless to deal directly with the customer and require each customer to self-certify under penalty of perjury at time of service activation and annually thereafter that they are the head of household and receive Lifeline-supported service only from i-wireless<sup>10</sup>. The Commission also required i-wireless to establish safeguards to prohibit more than one supported i-wireless service at each residential address<sup>11</sup>. i-wireless proposes the following plan to implement these certification and verification conditions:

#### **A. Policy**

i-wireless will comply with all certification and verification requirements for Lifeline eligibility established by states where it is designated as an ETC. In states where there are no state-imposed requirements, i-wireless will comply with the certification and verification procedures in effect in that state as reflected on the website of the Universal Service Administration Company. However, for any states which do not mandate Lifeline support and/or which do not have established rules of procedure in place, i-wireless will certify at the outset and will verify annually consumers' Lifeline eligibility in accordance with the Commission's requirements.

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<sup>10</sup> See *Order* at 16.

<sup>11</sup> See *id.*



## **B. Certification Procedures**

i-wireless will implement certification procedures that enable consumers to demonstrate their eligibility for Lifeline assistance by contacting i-wireless via telephone, facsimile, or the internet. At the point of sale, consumers will be provided with printed information describing i-wireless' Lifeline program, including eligibility requirements, and with instructions for enrolling. Consumers will be directed to a toll-free telephone number and to i-wireless' website, which will contain a link to information regarding the Company's Lifeline service plan, including a detailed description of the program and state-specific eligibility criteria. i-wireless understands and accepts the Commission's requirement that the Company have direct contact with all customers applying for participation in the Lifeline program<sup>12</sup>. Retailers will have no role in the Lifeline application process, other than to provide customers with printed information regarding the program.

Consumers will be required to call a toll-free number to complete an application over the phone. The application will then be mailed to the customer for signature under penalty of perjury and for the submission of supporting documentation. The signed application and support documentation must be mailed to the address provided by the Company. Processing of consumers' applications, including review of all application forms and relevant documentation, will be performed under i-wireless' supervision by managers experienced in the administration of the Lifeline program.

i-wireless will insure that all required documentation is taken care of properly by using state-specific compliance checklists. In addition, the Lifeline application form will include a certification section where the applicant must attest and sign under penalty of perjury that the applicant meets the relevant eligibility criteria. For states with program-based eligibility criteria, the form will list each of the qualifying programs, and the applicant will be required to identify the program(s) in which they participate. For states with income-based eligibility criteria, the applicant will be required to certify under penalty of perjury that their household income does not exceed the relevant threshold (*e.g.*, 135% of the Federal Poverty Guidelines for federal default states) and will be required to provide proof of income-based eligibility. Applicants will also be required to certify under penalty of perjury that they are head of their household and receive Lifeline-supported service only from i-wireless. Penalties for perjury will be clearly-stated on the certification form, as

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<sup>12</sup> See *Order* at ¶ 16.

required by the *Order*<sup>13</sup>.

Finally, the application forms will require each applicant to provide their name, primary residential address and an alternate telephone number (if any). i-wireless will incorporate this information into its customer information database. The Company will check the name and address of each Lifeline applicant against its database to determine whether or not it is associated with a customer that already receives i-wireless Lifeline service, and will then review the application to ascertain whether the applicant is attempting to receive Lifeline-supported service for more than one handset associated with the address. i-wireless will deny the Lifeline application of any such individual and advise the applicant of the basis for the denial. i-wireless shares the Commission's concern about abuse of the Lifeline program and is thus committed to the safeguards stated herein, with the belief that the procedures it will implement will prevent i-wireless customers from engaging in such abuse of the program.

### **C. Verification Procedures**

As required by the Commission's *Order*, i-wireless will require every consumer enrolled in the Lifeline program to verify on an annual basis that they are the head of their household and only receive Lifeline service from i-wireless<sup>14</sup>. i-wireless will notify each participating Lifeline consumer on the anniversary of their enrollment that they must confirm their continued eligibility in accordance with the applicable requirements. Such verification will be required in order for the consumer to continue to purchase prepaid airtime from i-wireless at the discounted rate only available to those customers who are enrolled in its Lifeline program.

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<sup>13</sup> See *Order* at ¶ 17.

<sup>14</sup> See *Order* at ¶ 16.




## CONCLUSION

i-wireless submits that its Compliance Plan fully satisfies the conditions set forth in the Commission's *Order* granting forbearance to the Company. Implementation of the procedures described herein will promote public safety and should ensure that Lifeline customers have access to 911 and E911 services while safeguarding against misuse of the Company's Lifeline services. Accordingly, i-wireless respectfully requests that the Commission expeditiously approve its Compliance Plan so that i-wireless may begin providing the benefits of much-needed Lifeline service to qualifying low-income consumers as quickly as possible.

Respectfully submitted,

I-WIRELESS, LLC



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Lance J.M. Steinhart  
Lance J.M. Steinhart, P.C.  
1720 Windward Concourse  
Suite 115  
Alpharetta, Georgia 30005  
(770) 232-9200

*Its Counsel*

Dated July 26, 2010

**EXHIBIT A**

**PSAP CERTIFICATION REQUEST**



[Date]

Public Safety Answering Point Coordinator  
[Address]

Re: Request for PSAP Certification for Lifeline Participation

Dear PSAP Coordinator:

This is to inform you that i-wireless, LLC ("i-wireless"), has been designated an Eligible Telecommunications Carrier ("ETC") by the Federal Communications Commission ("FCC") for the purpose of offering reduced-cost service to low-income customers in the state of [State] under the federal Lifeline program. (See attached FCC Order \_\_\_\_\_ released \_\_\_\_\_.)

Lifeline ensures that low-income customers have access to quality telephone service at a reasonable, affordable rate, and i-wireless is pleased to be among the wireless carriers offering Lifeline service to low-income customers, particularly during this difficult economic environment.

The FCC's approval for i-wireless to offer Lifeline service was conditional upon the following requirements: (1) offer 911 and enhanced 911 (E911) access immediately upon activation of service, and (2) provide its new Lifeline customers with E911-compliant handsets and replace, at no additional charge to the customer, noncompliant handsets of existing customers who subscribe to Lifeline service. The FCC further required that i-wireless seek certification from each Public Safety Answering Point ("PSAP") where i-wireless intends to offer Lifeline service confirming that i-wireless provides its customers with 911 and E911 access. i-wireless is seeking this certification from your PSAP based on the information provided in this letter and any additional information you may request.

i-wireless' wireless services operate on the Sprint Nextel ("Sprint") network. As you may be aware, Sprint has completed the deployment of facilities necessary to offer Phase I and/or II E911 services in your service area, providing Sprint and i-wireless customers with 911 and E911 access. i-wireless' Lifeline customers will enjoy this same access to 911 and E911 service once activated for service, regardless of activation status or availability of prepaid airtime. As required by the FCC, all i-wireless handsets will comply with applicable federal requirements governing the provision of 911 and E911 service. i-wireless will provide new Lifeline customers with E911-compliant handsets and, for existing customers who subscribe to Lifeline service, will verify that their handsets are E911-compliant or replace the handset at no charge to the customer.

For your convenience, enclosed is a certification form for your review and signature as PSAP Coordinator. Please return the signed certification form in the self-addressed stamped envelope. As required by the FCC, i-wireless will keep the certification on file in the event the FCC seeks to review this documentation. **If within 90 days of receipt of this letter, you do not provide the certification or make an affirmative finding that i-wireless does not provide its customers with 911 and E911 service in your area, i-wireless is permitted to self-certify compliance with the requirements for 911 and E911 access for this PSAP.** (See FCC Order \_\_\_\_\_ at para. \_\_\_\_.)

Should you have any questions about the foregoing, please contact us at pat.mcdonough@iwirelesshome.com. Please be sure to include your name and address in the email.

Thank you in advance for your cooperation and for enabling i-wireless to offer Lifeline service to low-income customers in your PSAP jurisdiction.

Sincerely,

i-wireless, LLC



**i-wireless Lifeline Program  
PSAP Certification Form**



State of \_\_\_\_\_

PSAP Name: \_\_\_\_\_

PSAP Coordinator Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

PSAP Jurisdiction Description: \_\_\_\_\_

In my capacity as the Coordinator for the Public Safety Answering Point ("PSAP") described above, I am responsible for the implementation of 911 and Enhanced 911 ("E911") service in accordance with the rules and regulations of the Federal Communications Commission ("FCC").

I have been informed by i-wireless, LLC ("i-wireless") that, by Order dated \_\_\_\_\_, the FCC has designated i-wireless as an Eligible Telecommunications Carrier ("ETC") pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (47 U.S.C. § 214(e)(6)), for the limited purpose of providing Lifeline service in [State], among other states. I have further been informed that the FCC's designation of i-wireless as an ETC is subject to certain conditions, including a condition that i-wireless must obtain certification from each PSAP where it will offer Lifeline service that i-wireless customers will have 911 and E911 access immediately upon activation of service.

In connection with its request for certification by the PSAP, i-wireless has provided certain information. I have been informed by i-wireless that its wireless service operates on the Sprint Nextel ("Sprint") network. i-wireless has indicated that its Lifeline customers will have the same access to 911 and E911 service as the retail customers of Sprint. In addition, i-wireless has represented that its Lifeline handsets will comply with the FCC Order requiring that the handsets be capable of accessing 911 and E911 service regardless of activation status or availability of prepaid airtime.

Upon information and belief, in my capacity as PSAP Coordinator, I hereby certify that i-wireless has provided evidence that it is complying with the FCC requirement that it provide customers with access to basic and E911 service immediately upon activation of Lifeline service.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of PSAP Coordinator

**Lance J.M. Steinhart, P.C.**

1720 Windward Concourse

Suite 115

Alpharetta, Georgia 30005

Also Admitted in New York  
and Maryland

Telephone:(770) 232-9200

Facsimile:(770) 232-9208

Email: lsteinhart@telecomcounsel.com

January 7, 2011

**VIA ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: Ex Parte Communication: WC Docket No. 09-197

Dear Ms. Dortch:

i-wireless, LLC (“i-wireless” or the “Company”), by its undersigned counsel, hereby outlines certain voluntary commitments that the Company agrees to implement to combat the potential for waste, fraud and abuse with respect to its provision of Lifeline services. The Company requests that the Commission incorporate these procedures into its compliance plan currently pending approval in the above-referenced docket, and also agrees to be bound by the procedures described herein in connection with the Commission’s approval of the Company’s pending request for designation as an eligible telecommunications carrier (“ETC”) in the states of Alabama, Connecticut, Delaware, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia.

**I. Voluntary Commitments**

i-wireless recognizes the importance of safeguarding the Commission’s low-income universal service program. i-wireless supports the consolidation of enrollment data for all Lifeline service subscribers through a centralized database that is independently administered, and requires participation by all ETCs. However, until the Commission implements regulations of general applicability regarding households receiving multiple Lifeline discounts in contravention of Lifeline rules as well as treatment of inactive prepaid Lifeline accounts, i-wireless will implement the following procedures designed to avoid waste, fraud, and abuse. Specifically, i-wireless commits to:

- Provide state commissions (PUC) with data that will enable the states to track whether some consumers are enrolled in more than one Lifeline program. Specifically, i-wireless agrees to make available state-specific customer data, including name and address, to



each state PUC where it operates for the purpose of permitting the PUC to determine whether an existing Lifeline customer receives Lifeline service from another carrier;

- Promptly investigate any notification that it receives from a state PUC that one of its customers already receives Lifeline service from another carrier;
- Immediately deactivate a customer's Lifeline service and no longer report that customer on USAC Form 497 if i-wireless' investigation concludes that the customer receives Lifeline services from another carrier in violation of the Commission's regulations;
- Implement a non-usage policy whereby i-wireless will identify Lifeline customers that have not used the Company's Lifeline service for 60 days, and cease to claim Lifeline reimbursements for such customers if they do not use their service within a 30-day grace period following the initial 60-day non-usage period.<sup>1</sup> Specifically, if no usage appears on an i-wireless Lifeline customer's account during any continuous 60-day period, i-wireless will promptly notify the customer that the customer is no longer eligible for i-wireless Lifeline service subject to a 30-day grace period. During the 30-day grace period, the customer's account will remain active, but i-wireless will engage in outreach efforts to determine whether the customer desires to remain on the Company's Lifeline service. If the customer's account does not show any customer-specific activity during the grace period (such as making or receiving a voice call, receiving or sending a text message, downloading data or adding money to the account), i-wireless will deactivate Lifeline services for that customer. In addition, i-wireless will not seek to recover a federal Universal Service Fund subsidy for the free minutes provided to the customer during the grace period or thereafter report that customer on its USAC Form 497.

i-wireless agrees to comply with the above conditions in any and all states where it is designated as an ETC by the Commission within 30 days of the effective date of such designation.

## **II. Key Partnerships**

i-wireless believes that the first line of defense against fraud and abuse is to partner with high quality channels and organizations. By emphasizing the social benefits of the program and partnering with those focused on the benefits to their constituents, the Company believes that it can avoid potential misuse of the program. To further protect the integrity of the Universal Service Fund ("USF"), i-wireless has contracted with: (a) Solix, a well-known, experienced and

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<sup>1</sup> i-wireless will consult with the PUCs in the states where it provides Lifeline services regarding implementation of the policy described above. i-wireless expects that certain state PUCs or similar agencies may seek to incorporate state-specific variations to the policy. Consequently, i-wireless may modify the parameters of the inactivity policy described herein after consultation with the respective state PUCs.

reputable firm in the USF industry, to assist in reviewing customer applications and verifying eligibility, and to ensure that i-wireless is in compliance with federal and state regulations at all times; and (b) CGM, LLC of Roswell, Georgia, a lifeline service bureau, to edit all subsidy request data. CGM will process and validate i-wireless' subsidy data to prevent: (1) Duplicate Same-Month Lifeline Subsidies (Double Dip): any name/address that is already receiving a lifeline subsidy from i-wireless will be automatically prevented from receiving a second lifeline subsidy in that same month; and (2) Inactive lines receiving subsidy: CGM's systems compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines. Through the processes described above, i-wireless ensures that it does not over-request from support funds.

### **III. i-wireless' Compliance Plan and ETC Petition Should Be Granted Without Further Delay**

i-wireless submits that the voluntary commitments described herein should remove any remaining impediments to prompt approval of the Company's compliance plan and outstanding request for ETC designation. i-wireless is aware of the Federal-State Joint Board on Universal Service's November 2010 recommended decision that the Commission adopt certain recommendations concerning the USF low-income programs. i-wireless is willing to abide by future regulations implemented by the Commission, and even looks forward to working actively with the Commission to implement industry-wide procedures that will better protect the federal USF mechanisms. In the meantime, i-wireless asserts that it has taken appropriate steps to ensure program integrity, and the Company should be granted the opportunity to introduce much-needed competition into the prepaid wireless ETC market, ensuring that lower-income customers have access to a broader array of Lifeline services during this period of extended economic hardship.

Swift action by the Commission on these long-standing requests will advance the program's goals and serve the public interest. i-wireless respectfully requests approval of its pending compliance plan and ETC designation request without further delay.

Respectfully submitted,

/s/

Lance J.M. Steinhart  
Attorney for i-wireless, LLC

cc: Pat McDonough



## **EXHIBIT 5**

### **Sample Advertisements**

MANUFACTURERS COUPON



You qualify for a  
**FREE** Cell Phone  
& Airtime!

MANUFACTURERS COUPON

To find out how to  
receive your **FREE** phone,  
call **1-800-XXX-XXXX**

**ACCESS MOBILE**   
Brought to you by



## What is Access Wireless?



When times are tough, it's important to be accessible. Access Wireless is a government-supported program that ensures anyone can get a mobile phone. If you qualify, you'll receive a free wireless phone and a monthly allotment of minutes so you can stay in contact with friends and family members, be reachable to potential employers and have a means of communicating in case of emergency.

Free Access Wireless phones vary by handset manufacturer and model and are dependent on inventory availability. Pricing listed includes domestic calling only.

Access Wireless is not available in all areas. To determine if Access Wireless is available where you live, please visit [www.accesswireless.com](http://www.accesswireless.com) or call 1-800-464-6010.

Access Wireless is brought to you by i-wireless LLC and is a Lifeline Assistance program supported by the Universal Service Fund. Lifeline Assistance is only available on one wireless phone per household and is available in limited geographic areas. Access Wireless users are subject to the Access Wireless Terms and Conditions found at [www.accesswireless.com](http://www.accesswireless.com). Access Wireless is a registered trademark of i-wireless, LLC.

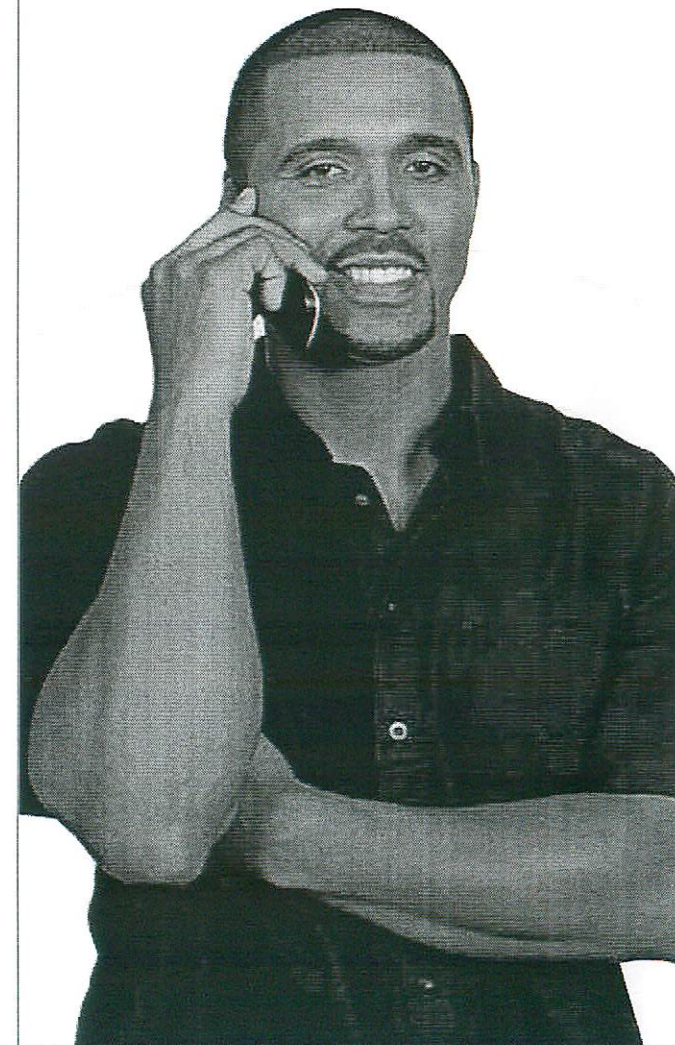
access **WIRELESS**

Call 1-800-464-6010 to apply  
for service today.

access **WIRELESS**

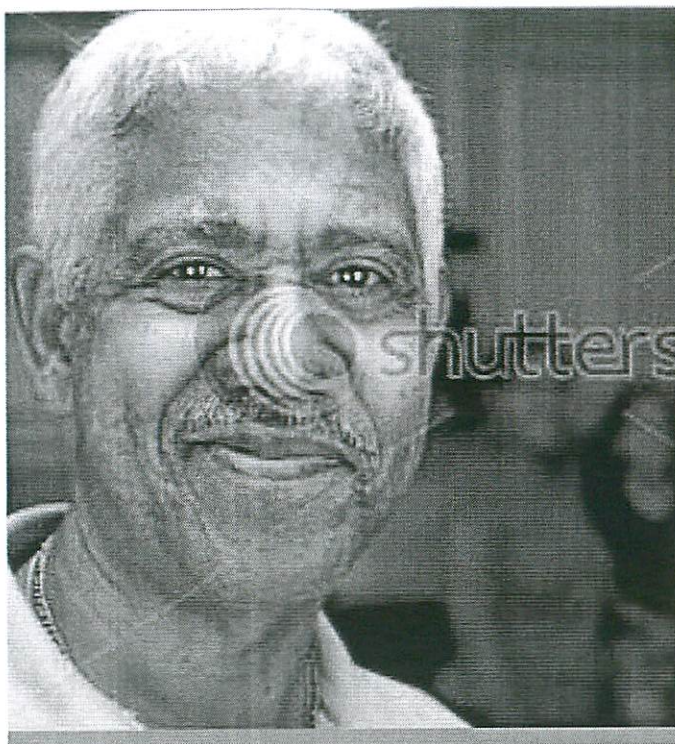
Stay connected  
when it matters most.

Call 1-800-464-6010 or visit  
[www.accesswireless.com](http://www.accesswireless.com) for more information.



\*Access Wireless is a government-supported program that





## How do I qualify for Access Wireless?

You automatically qualify for Access Wireless service if you are enrolled in any of the following government programs:

- Medicaid
- Food Stamps/SNAP
- Supplemental Security Income (SSI) (Not the same as Social Security benefits)
- Temporary Assistance to Needy Families (TANF)
- Federal Public Housing Assistance (Section 8)
- Low-Income Housing Energy Assistance Program (LIHEAP)
- National School's Free Lunch Program

You may also qualify for Access Wireless service based on your household income. For details call 1-800-464-6010.

## What do I get with Access Wireless?

Once you've been approved for the program, you'll receive:

- A FREE Access Wireless phone
- FREE voicemail, domestic long distance, call waiting and caller ID
- 911 Access

-AND-

Choose from the following free rate plans:

	Minutes/Texts Included	Free Calls to Care & IVR	Free Incoming Texts	Carry Forward Minutes	Loyalty Program Eligible
Plan Option #1	150	Yes	Yes	Yes	Yes
Plan Option #2	250	No	No	No	No

(OR) Add money to your account and upgrade to one of the following plans:

Plan Option #3

**\$10 Month**  
200 Minutes  
Unlimited Text\*  
200 Mb Web & Email

**\$25 Month**  
1,000 Minutes  
Unlimited Text\*  
500 Mb Web & Email

**\$45 Month**  
Unlimited Talk & Text\*  
2.5 Gb Web & Email

## How do I apply for Access Wireless?



Call 1-800-464-6010 to apply for service today.

Once you become an Access Wireless user, you can add money to your account to upgrade your plan by using a debit/credit card or by purchasing an i-wireless airtime card at any of the following Kroger family of stores.





## **Lifeline Creative Brief**

### **About Access Wireless**

Access Wireless is brought to you by i-wireless, LLC and is a Lifeline Assistance program supported by the federal Universal Service Fund for income eligible households. In order to qualify to receive an Access Wireless phone, persons must meet certain eligibility criteria determined by each individual State where the service is to be provided. These requirements are based on a person's participation in a state or Federal support programs or by meeting the Income Poverty Guidelines as defined by the United States government. Lifeline Assistance may only be provided to one phone line per household.

### **Program Overview**

By qualifying to receive an Access Wireless phone, you will receive:

-A free phone with 911 access.

#### **Offer:**

**Option 1** – Receive 150 Anytime Minutes per month for free. These minutes can be used to make/receive voice calls and send text messages. Calls to customer care are free. All incoming text messages are free. Unused minutes can carry over to the following month. Eligible for Free Minutes rewards program.

**Option 2**– Receive 250 Anytime Minutes per month for free. These minutes can be used to make/receive voice calls and send text messages. Calls to customer care are not free. Incoming text messages are not free. Minutes cannot carry over to the following month. Not eligible for Free Minutes rewards program.

**Option 3** – Apply a \$15 credit toward any current i-wireless monthly rate plan, excluding text only plans. A \$15 credit will be applied to a customer's account every 30 days. Calls to customer care are free. All incoming text messages are free. Unused minutes can carry over to the following month. Eligible for Free Minutes rewards program.

### **Additional Payment Options**

Access Wireless users can add value to their account by purchasing i-wireless airtime cards available at the Kroger family of stores or by using a debit or credit card over the phone or online.

### **FREE MINUTES Eligibility**

Access Wireless users are eligible to participate in the FREE MINUTES rewards program and will adhere to the same business rules as i-wireless customers.



(No more than 20 FREE MINUTES can be earned for every \$100 in qualifying spending and a maximum of 1,000 minutes can be earned in a 30-day period. Unlimited rate plans will receive a dollar credit applied to the account in lieu of minutes. The dollar credit will not exceed thirty dollars in value within a 30-day period. FREE MINUTES are usually applied within 48 hours after the \$100 threshold for qualifying purchases is met. Customers qualify for the \$100 spent, regardless of their method of payment, e.g., food stamps/SNAP card.)

**How to Qualify for an Access Wireless Phone**

Eligibility to participate in the Lifeline Assistance program varies by state.

You may qualify for an Access Wireless phone in South Carolina if you currently participate in any of government-sponsored programs below:

- Medicaid
- Food Stamps
- Temporary Assistance for Needy Families (TANF)

## **EXHIBIT 6**

### **2009 Lifeline Participation Rates by State and FCC News Release**





# NEWS

Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D. C. 20554

News Media Information 202 / 418-0500  
Internet: <http://www.fcc.gov>  
TTY: 1-866-835-5322

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.  
See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

FOR IMMEDIATE RELEASE:  
September 14, 2009

NEWS MEDIA CONTACT:  
Rosemary Kimball (202) 418-0511  
Email: [rosemary.kimball@fcc.gov](mailto:rosemary.kimball@fcc.gov)

## FCC SUPPORTS "NATIONAL LIFELINE AND LINK UP TELEPHONE DISCOUNT AWARENESS WEEK" - SEPTEMBER 14 - 20, 2009

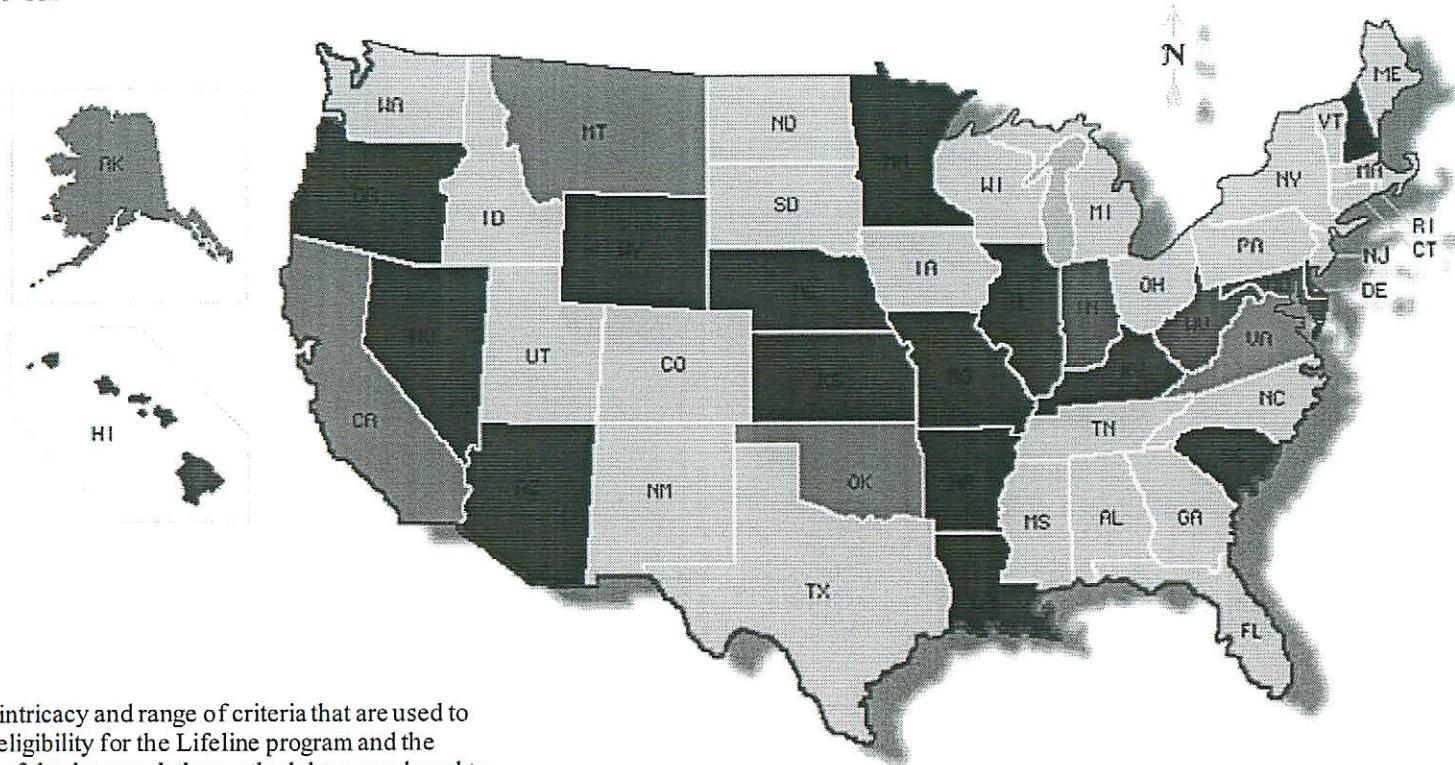
WASHINGTON, DC -- Today, the Federal Communications Commission (FCC) joined the effort to call attention to the "National Lifeline and Link Up Telephone Discount Awareness Week," which takes place September 14 - 20, 2009. Various state and local agencies throughout the country will be participating with outreach activities and events. The "Lifeline" and "Link Up" programs provide financial assistance to low-income consumers in connecting a residential phone line and paying their monthly bill. The programs have been active for years and are administered by the FCC and state public utility commissions, but at least half of eligible consumers nationwide do not take advantage of this assistance.

"Lifeline" involves discounts on monthly charges for a primary residential telephone line, including wireless service. "Link Up" involves a discount on the cost of initiating the primary telephone service for a residence, including the activation of a wireless phone that serves as the primary residential telephone. The discounts are available throughout the country, including an enhanced discount on Tribal lands. In general, consumers at or below 135% of the federal poverty guidelines, or who participate in one or more of a number of other assistance programs, are eligible for Lifeline and Link Up.

To help call attention to the availability of these programs, the FCC joins the National Association of Regulatory Utility Commissioners (NARUC) and the National Association of State Utility Consumer Advocates (NASUCA), and urges government agencies and non-profit organizations to help disseminate information on Lifeline and Link Up to their constituents. More information about the programs and how to apply is available at [www.lifeline.gov](http://www.lifeline.gov) or <http://www.usac.org/li/low-income/apply-for-support.aspx>.

-- FCC --

## 2009 Lifeline Participation Rates by State



Notes:

Due to the intricacy and range of criteria that are used to determine eligibility for the Lifeline program and the limitations of the data used, the methodology employed to create this map involves several estimates, assumptions, simplifications, and omissions. Therefore, the rates generated on this map should be treated as estimates only.

3-8-10

District of Columbia = 10% - 20%



**EXHIBIT 7**

**Wire Centers**

WIRE CENTER	LOCALITY
ABVLSCXA	ABBEVILLE
AIKNSCMA	AIKEN2
ARSNSCAH	ANDERSON
ARSNSCMA	ANDERSON
ARSNSCTV	ANDERSON
AWDWSCXA	AWENDAW
AYNRSCXA	AYNOR
BATHSCMA	BATH
BAVLSCMA	BLACKVILLE
BETNSCMA	BELTON
BFTNSCAQ	BLUFFTON
BFTNSCXA	BLUFFTON
BHISSCMA	BEECH ISLAND1
BHVLSCXA	BRANCHVILLE
BLBGSCMA	BLACKSBURG
BLNHSCMA	BLenheim
BLRGSCMA	BLUE RIDGE
BONNSCXA	BONNEAU
BRWLSCBE	BARNWELL
BSVLSCAV	BISHOPVILLE RURAL
BSVLSCXA	BISHOPVILLE
BTBGSCMA	BATESBURG
BUFTSCXA	LOW COUNTRY
BWMNSCXA	BOWMAN
CENTSCWS	CENTRAL
CHAPSCCL	CHAPIN-LITTLE MTN SO
CHESSCXA	CHESTER
CHFDSCXA	CHESTERFIELD
CHPLSCXA	CHAPPELLS
CHRWSCES	CHERAW
CHSNSCXA	CHESNEE
CHTNSCDP	CHARLESTON1
CHTNSCDT	ISLE OF PALMS
CHTNSCJM	CHARLESTON1
CHTNSCJN	CHARLESTON1
CHTNSCLB	CHARLESTON1
CHTNSCNO	CHARLESTON1
CHTNSCWA	CHARLESTON1
CLKSCXA	GEORGETOWN
CLHLSCXA	CLARKS HILL
CLIOSCMA	CLIO
CLMASCAR	COLUMBIA1
CLMASCBQ	COLUMBIA1
CLMASCCH	COLUMBIA1
CLMASCDF	COLUMBIA1
CLMASCPA	COLUMBIA2
CLMASCSA	COLUMBIA2
CLMAS CSC	COLUMBIA1
CLMASCSH	COLUMBIA2



WIRE CENTER	LOCALITY
CLMASCSN	COLUMBIA2
CLMASCSU	COLUMBIA1
CLMASCSW	COLUMBIA1
CLSNSCMA	CLEMSON
CLTNSCMA	CLINTON
CLVRSCES	CLOVER
CMDNSCLG	CAMDEN
CMDNSCMA	CAMDEN
CMPBSCXA	CAMPOBELLO
CMRNSCXA	CAMERON
CNWYSCXA	CONWAY
CNWYSCXB	SOUTH CONWAY
CNWYSCXC	MURRELLS INLET
CNWYSCXM	NORTH CONWAY
CRHLSCXA	CROSS HILL
CRSSSCXA	CROSS
CTVLSCXA	COTTAGEVILLE
CWPNSCMA	COWPENS
DLLNSCMA	DILLON
DRTNSCMA	DARLINGTON
DWSTSCXA	DUE WEST
EDBHSCMA	EDISTO ISLAND
EDFDSCMA	EDGEFIELD
ELLRSCXA	ELLOREE
ENORSCXA	ENOREE
EOVRSCMA	EASTOVER
ESLYSCMA	EASLEY
ETVLSCXA	EUTAWVILLE
FLBHSCMA	FOLLY BEACH
FLRNSCMA	MYRTLE BEACH
FLYDSCXA	FLOYDS
FNINSCES	FOUNTAIN INN
FNVLSCMA	SPARTANBURG
FTLWSCXA	FORT LAWN
FTMLSCXB	FORT MILL
GFNYSCMA	GAFFNEY
GIVLSCMA	GRANITEVILLE
GLBRSCXA	GILBERT
GNVLSCBE	GREENVILLE
GNVLSCCH	GREENVILLE
GNVLSCCR	GREENVILLE
GNVLSCDT	SPARTANBURG
GNVLSCWE	GREENVILLE
GNVLSCWP	GREENVILLE
GNVLSCWR	GREENVILLE
GNWDSCXB	GREENWOOD
GNWDSCXC	GREENWOOD
GRCRSCXA	GRAY COURT
GRERSCMA	GREER

WIRE CENTER	LOCALITY
GRFLSCXA	GREAT FALLS
GRTWSCXA	GEORGETOWN
GRVRNCMA	ANTIOCH
GSTANCSO	MILL CREEK
HCGVSCMA	HICKORY GROVE
HCTVSCXA	HICKOYTVRN
HDGSSCXA	HODGES
HLHDSCXA	HILTON HEAD
HLHDSCXB	HILTON HEAD
HLHDSCXC	HILTON HEAD
HLHLSCXA	HOLLY HILL
HLVLSCXA	HARLEYVL
HLWDSCXA	HOLLYWOOD
HMNGSCXA	HEMINGWAY
HMPNSCXA	HAMPTON
HNPHCMA	HONEA PATH
HNVLSCXA	HENDERSNVL
HRVLSCXA	HARDEEVILLE
HTVLSCMA	HARTSVILLE
HUGRSCXA	HUGER
INMNSCXA	INMAN
ISPLSCIS	SULLIVANS ISLAND
IVA SCXA	IVA
JCSNSCXA	JACKSON
JHTNSCMA	JOHNSTON
JMTWSCXA	JAMESTOWN
JNVLSCMA	JONESVILLE
JONNSCES	JOANNA
KRSHSCXB	KERSHAW
LAMRSCXA	LAMAR
LATTSCLS	LATTA
LBNNSCXA	LEBANON
LBRTSCMA	LIBERTY
LKWDSCXA	LAKESWOOD
LKWLSCRS	LAKE WYLIE,SC
LNCSSCXA	LANCASTER
LNDRCXA	LANDRUM
LODGSCXA	LODGE
LORISCXA	LORIS
LRBYSCXA	LAUREL BAY
LRNSSCXB	LAURENS RURAL
LRNSSCXC	LAURENS
LWCNSCAA	LOW COUNTRY
LWVLSCXA	LEWISVILLE
LXTNSCXC	LEXINGTON
LYBGSCXA	LYNCHBURG
LYMNSCES	LYMAN
LYMNSCIP	LYMAN
MARNSCBN	MARION



WIRE CENTER	LOCALITY
MARNSCMA	MARION
MCBESCXA	MC BEE
MCCRSCXB	MCCORMICK
MCDNSCXA	MACEDONIA
MLNSSCWP	NICHOLS
MLVLSCXA	MCCLELLANVILLE
MNCRSCXB	CHARLESTON1
MNNGSCXA	MANNING
MNPLSCES	MT PLEASANT
MRINSCXA	DARLINGTON
MRTTSCMA	TRAVELERS REST
MTCRSCXA	MT CARMEL
MTVLSCXA	MOUNTVILLE
MYBHSCXB	MYRTLE BEACH
MYBHSCXC	MYRTLE BEACH
MYBHSCXM	MYRTLE BEACH
MYVLSCXA	MAYESVILLE
NAGSSCMA	BEECH ISLAND2
NMNGSCXA	NORTH MANNING
NRTHSCXB	NORTH
NRWYSCXA	NORWAY
NSMTSCXB	NORTH SUMTER
NSTNSCXA	NORTH SUMMERTON
NTSXSCXA	NINETY SIX
NWBYSMA	NEWBERRY
NWELSCMA	NEW ELLENTON
ODBHSCXB	NORTH MYRTLE BEACH
OKLDSCXA	OAKLAND
ORBGSCMA	ORANGEBURG
PCKNSCES	PICKENS
PCLTSCMA	PACOLET
PDMTSCES	PIEDMONT
PELISCXA	PELION
PGLDSCXA	PAGELAND
PIVLSCXA	PINEVILLE
PLBHSCXA	PLUMBRANCH
PNBHSCXA	PONDBRANCH
PNTNSCMA	PENDLETON
PNWDSCXA	PINEWOOD
POCLSCXA	POCALLA
PRSRSCMA	PROSPERITY
PWISSCXA	PAWLEYS ISLAND
RCHLSCXB	DAVIDSON
RDLSCXA	RIDGELAND
RDSPSCXA	RIDGE SPRING
RDWYSCXA	RIDGEWAY
RWLDNCMA	ROWLAND
SALDSCXA	SALUDA
SALMSCMA	SALEM

WIRE CENTER	LOCALITY
SANTSCXA	SANTEE
SBRKCSK	CHARLESTON1
SCHLSCS	SOCIETY HILL
SENCSCMA	SENECA
SHHGSCXB	SHAW AFB HEIGHTS
SMTNSCXA	SUMMERTON
SMTRSC02	ESUMTER
SMTRSCXA	SUMTER
SPBGSCBS	SPARTANBURG
SPBGSCCV	SPARTANBURG
SPBGSCHW	SPARTANBURG
SPBGSCMA	SPARTANBURG
SPBGSCWV	SPARTANBURG
SSVLSCXA	SIMPSONVILLE
STBGSCXA	STATEBURG
STGRSCMA	ST GEORGE
STHLSCXA	ST HELENA ISLAND
STMTSCXA	ST MATTHEWS
STRRSCXA	STARR
SUVLSCMA	SUMMERVILLE2
SWNSSCXB	SWANSEA
SXMLSCMA	SIX MILE
TBVLSCXA	TURBEVILLE
TKNASCST	SENECA
TMVLSCMA	TIMMONSVILLE
TROYSCXA	TROY
TRRSSCMA	TRAVELERS REST
UNINSCMA	UNION,SC
WAMPSCXA	WAMPEE
WAVLSCXA	WABBEVILLE
WCLMSCMA	COLUMBIA2
WDRFSCXA	WOODRUFF
WENDSCXA	WEST END
WGNRSCXA	WAGENER
WHTMSCMA	WHITMIRE
WLBOSC02	SOUTH WALTERBORO
WLBOSCXC	WALTERBORO
WLBOSCXE	NORTH WALTERBORO
WLHLSCS	WALHALLA
WLMSSCXA	WILLIAMS
WLSTSCXA	WILLISTON
WMBHSCXA	WEST MYRTLE BEACH
WMNSSCES	WESTMINSTER
WMTNSCPW	WILLIAMSTON
WNBOSCXA	WINNSBORO
WNHLSCXA	NORTH MYRTLE BEACH
WRSHSCXA	WARE SHOALS
WTRLSCXA	WATERLOO
YMSSSCXA	YEMASSEE



WIRE CENTER	LOCALITY
YORKSCMA	YORK

## CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that she has served below listed parties with a copy of the pleading(s) indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

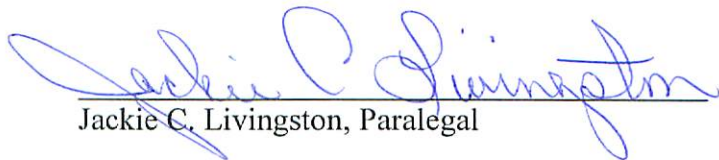
RE: Application of i-wireless, LLC for Designation as an  
Eligible Telecommunications Carrier in the State of South  
Carolina

DOCKET NO.: 2011- -C

PARTIES SERVED: C. Dukes Scott, Esquire  
Office of Regulatory Staff  
P.O. Box 11263  
Columbia, SC 29211

PLEADING: APPLICATION

March 9, 2011

  
Jackie C. Livingston, Paralegal